

# MAIN STREET **PRACTITIONER**

The Magazine for Tax and Accounting Professionals

## 9 Types of Clients to Avoid in 2016

(and how to fire them)

Should You  
Revise or  
Supplement  
Your Client  
Engagement  
Letters?

*PLUS sample  
engagement language*

Learn To Love  
**Frustration-**  
Or Change Your  
Workflow

## PRESIDENT'S MESSAGE



## 9 TYPES OF CLIENTS YOU SHOULD CUT LOOSE IN 2016



## 3 RULES FOR ASKING GREAT TAX RETURN QUESTIONS



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## CONTENTS

January 2016

### FEATURES

**4**  
**9 TYPES OF CLIENTS YOU SHOULD CUT LOOSE IN 2016**

**6**  
**SHOULD YOU REVISE OR SUPPLEMENT YOUR CLIENT ENGAGEMENT LETTERS?**

**10**  
**3 RULES FOR ASKING GREAT TAX RETURN QUESTIONS**

**12**  
**LEARN TO LOVE FRUSTRATION - OR CHANGE YOUR WORKFLOW**

**16**  
**INTERNAL REVENUE SERVICE ISSUES STERN WARNING TO NON-COMPLIANT TAXPAYERS WITH OFFSHORE HOLDINGS**

### DEPARTMENTS

**2**  
**PRESIDENT'S MESSAGE**  
*Kathy Hettick,*  
*NSA President 2015-2016*

**20**  
**ALL AROUND NSA**

**26**  
**TIPS FROM THE TAX DESK**

## NSA Tax & Accounting Resource Center

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Page 25



# A Message from the President, January 2016

As the president of NSA, I wish you and your families a happy and healthy New Year. With the ringing in of 2016 comes another new tax filing season! Another late passage (yet again!) tax bill, the complexity of tax filings, and the IRS struggling with limited service, demonstrates this tax season will be as challenging as ever. NSA has been working hard getting ready for those challenges by increasing our tax resources and networking opportunities for our members while advocating for tax preparer rights.

As I was brainstorming a “Presidents Message” and deciding what to share with our members, I came up with the following ☺, enjoy! In light of the continual increase of tax season stress and pressure, I developed my tax season top ten “outs”!

- 1. Stand out!** As an NSA member, you go above and beyond the average tax preparer by meeting stringent CE requirements and following the NSA Code of Ethics. Be a proud NSA member, and display your membership certificate for everyone to see! You’ve earned it!
- 2. Check-it out!** NSA members have free access to CCH tax research resources, NSA’s tax-help desk, the tax resource library, and peer to peer discussions on NSA Tax Talk! Click here to check out what NSA has for you! <http://www.nsacct.org/membership/nsa-tax-resources>
- 3. Speak out!** Have a thought? Have an idea? Let others know! Share your wisdom and experience with your office staff, with your clients, and with your fellow NSA members on tax talk!
- 4. Reach out!** How many times do we talk out our tax problems or issues, and they resolve themselves? Connect with another practitioner when you are stumped. We’ve all been there, and the value of being an NSA member is the value of connecting with fellow practitioners.
- 5. Time out!** Take a break when you need it! It never pays to try and push through a project when we are too tired, or too frustrated. Take a break when you get to that point, and you will come back refreshed and ready to tackle more!
- 6. Find out!** As NSA members, we know we go above and beyond in our quality of service to our clients. We also know that we never have all the answers, so don’t hesitate to do a little more research to find the answers you need. When in doubt, find out!
- 7. Look out!** We all have them, those clients that drain all your energy; those phone calls that zap your brain; those negative clients that always complain. Watch for those clients and situations that take away from your focus and from your quality of work. Don’t be afraid to fire the clients that take too much of your time and energy and leave you exhausted.

Continued on page 3

**8. Get out!** That's right, stand up and walk out that door! Get some exercise, visit with a friend, go for a walk. Be sure you are stepping away from your desk and the office a couple of times a day – encourage your staff to do this too. Creating a healthier you, creates a healthier work environment!

**9. Laugh out!** As the old saying goes, laughter is the best medicine. It relieves stress and anxiety, and can help with office morale! Go ahead, tell a joke, watch that funny cat video, or have a few minutes every day when someone in the office tells everyone a funny story.

**10. Shout out!** Did someone do a great job? A staff person? A client? Make sure you are taking the time to recognize those around you that are working hard. Words of encouragement go a long way when the pressure is on!

So there you have it! Post it, share it, live it! I wish each and every one of you a successful and prosperous tax season. Thank you for being a valued member of NSA. Remember, we are all in this together, and NSA is here for you!

Kathy Hettick, EA, ABA, ATP

NSA President, 2015-2016

# 9 Types of Clients You Should Cut Loose in 2016

Michael Houlihan and Bonnie Harvey

*Clients have a huge impact on your business and there are times when it is best to cut unruly clients loose.*

\*\*\*\*\*

With the New Year, you're probably looking forward to taking advantage of new opportunities that will help your business grow and blossom. What you aren't looking forward to is another year full of Client A cursing you out every time you have a meeting. Or Client B always asking for more, more, more and then complaining once they get the bill. Or Client C being so slow to respond that every project takes twice as long as is necessary. These are the clients who starve your business of the energy it needs to grow and prosper. We suggest it might be time to do some winter pruning and cut off those bad branches.

Bonnie's mother used to tell us that seasonal pruning makes the trees grow stronger and produce more fruit. The same is true of pruning troublesome clients. When you disconnect your business from these toxic energies, your employees will be happier, you'll be happier, and everyone will be able to focus their time and energy on more productive, more rewarding tasks.

But before grabbing your pruning shears, it's important to have a plan. First, you need to truthfully evaluate the situation. Do you have more troublesome clients than happy campers? In other words, are you the real problem? Is the client behaving badly because you're providing bad service or are they chronically abusive and disrespectful even when you provide great service? Second, you have to prune with finesse. It should be done in a way that prevents bad feelings on both sides.

Make it about you. Explain that it's not about them, but about the direction the company is heading at this time. Depending on what the case may be, tell them that you're reorganizing, making changes due to personnel issues, focusing on a set number of clients, and so on. You don't want to permanently burn any bridges.

So what kinds of clients should you consider putting on the chopping block? Below is a list of client types that you should prune in 2016:



**The Abusers.** These clients never have a kind word for you or your employees. In fact, interactions with them are usually peppered with demeaning language and expletives. It's one thing when they treat you like crap, but an abusive client being nasty to your staff is something you simply can't tolerate.

Nothing can sink employee engagement and happiness faster than rude and abusive clients. I find that a popular phrase with Abusers is always "or else." They yell at you or your employees that you better do such and such or else! Know that you'll never be able to please them. There will always be an "or else" looming. Know that at the end of the day, you're in control and you get to decide whether you're going to put up with them or not.



**The Pot Stirrers.** These clients aren't team players but they do infiltrate your team. Unfortunately, once they're working with you, they do nothing but stir up trouble. They say bad things about you to your employees and vice versa. Clients might do this because they feel like it gives them an upper hand. If they can play everyone against each other, they think they may be able to work out a better deal or

keep everyone scared enough that they'll do everything they ask. Pot Stirrers are poison to a company. It's important that you nip this kind of behavior in the bud as soon as you realize its happening.



**The Unhappy Campers.** Time and again, you deliver great work, but your unhappy campers always find something to complain about. They're never fully satisfied, and their lack of gratitude has taken the wind out of you and your employees' sails more than once. Unhappy Campers may not be the worst clients on your list, but they can be exhausting. When you and your staff have put time and

energy into a project and you're pleased with the results, your clients' appreciation means a lot. And it doesn't have to be a big show of gratitude. A simple "thank you!" is all it takes. But Unhappy Campers can't be bothered. If they're not happy, you're not happy, and it's best to cut them loose while you still have energy to give to other clients.

Continued on page 5





**The Cheapskates.** Any business owner knows that deciding on how to price your products or services is never an easy decision to make. Chances are before presenting a client with a price list, you've already put a lot of time and thought into it, running the numbers to settle on a price that works for your business and potential customers. But Cheapskates don't care about any of that. They're the clients

who always ask for a discount or want to keep paying based on an outdated price list.

Of course, it's okay to give clients a discount here and there. But Cheapskates have no problem bleeding you dry. And the worst Cheapskates are also chronic late or non-payers. They never pay invoices on time, causing you to have to spend time tracking them down in order to get paid. Your energy is better spent elsewhere.



**The Know-It-Alls.** These are the clients who make you wonder why they even hired you in the first place. They never want to take your advice, fight you at every turn, and then change all the work you send their way. Even worse, when they do it their way and don't get the results they wanted, they find a reason to blame you or call you and need you to fix it under a ridiculous deadline. When a client

prevents you from doing what you do best, that's a big problem. It makes the work you do for them less satisfying, and worse, you run the risk of having your business's name attached to subpar work.



**The Sponges.** Your Sponge clients seem to think they're your only clients and use your time accordingly. They call constantly, send email after email, and request needless meetings or flake on important meetings and deadlines because they view their own schedules as much more important than yours. You put much more into your interactions with Sponges than you get back. They eat up valuable time with unimportant tasks and worries that keep you from servicing other, more profitable clients.



**The Headache Inducers.** These are the clients who hold up a hoop and expect you to jump through it. Then, they hold up an even smaller hoop and expect you to jump through it. And on and on. They specialize in making unreasonable demands and last-minute requests that put unreasonable stress on your company. If anyone is going to give you a migraine, it's this type of client. You might be able

to rein them in by setting boundaries—for example, “no changes can be made within 24 hours of a deadline”—but if they repeatedly breach those boundaries, it might be time to pass them on to your competition. You don't need the headache!



**The Cowboys.** Every interaction with these clients feels like a Wild West showdown at high noon, but instead of carrying a six shooter, their biggest threat is firing you. They constantly remind you how easily you could be replaced. Unfortunately, the best way to handle Cowboys is to be the first one to pull the trigger. You might suggest that they'd be happier working with another company and help

them take steps to make that transition. There's no joy in always being under the gun, and you're never going to do your best work when you're being threatened with termination.

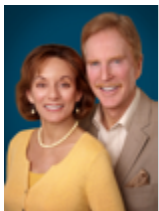


**The Two-Faced.** With these clients, you never know what's up or down. They won't hesitate to lie to get what they want—or conveniently forget previously agreed-upon goals or deadlines. They're always changing the rules and moving the goalposts. You can never reach a satisfactory point with them because they're always changing their expectations. You never know where you stand with these kinds

of clients. And that can cause a lot of unnecessary frustration and confusion. It becomes difficult for you to make the right decisions for them. You end up constantly second-guessing yourself or wondering when they're going to turn everything on its head. Don't waste your time. There are plenty of honest clients out there.

Once when I was a young boy, I complained to my father about a schoolmate. And my father said, “Michael, you are like a space station orbiting the earth. You have only three or four ports where visiting spaceships can dock. When all the ports are taken, no new ships can get in.” Like Bonnie's mother's advice about pruning, my father's lesson to me was simple: You have to get rid of dead weight in order to open yourself up to new opportunities.

Whether you think of freeing your business of troublesome clients as pruning away the bad or opening up a port to welcome new opportunities, the results are the same. Your business will be healthier. You and your employees will be able to blossom and pursue those activities that can truly improve your business.



#### About the Authors:

Michael Houlihan and Bonnie Harvey coauthor the weekly no-nonsense business blogs at [www.TheBarefootSpirit.com](http://www.TheBarefootSpirit.com) and [www.TheBrandAuthority.net](http://www.TheBrandAuthority.net). For more information, contact [Info@TheBarefootSpirit.com](mailto:Info@TheBarefootSpirit.com). Follow them on [Facebook](#) and [Twitter](#).

# Should You Revise or Supplement Your Client Engagement Letters?

Ronda Jones

Since the IRS has put more responsibilities on tax preparers and accountants, most are now using engagement letters, even with long-term clients.

It's easy to store those forms away and forget what agreed-to services they contained, but you may need to review them each year and consider revisions if you're providing a new or special service that wasn't addressed in the initial engagement agreement.

A well-crafted engagement letter can be a primary tool for managing risk, in order to avoid and defend malpractice claims. A proper engagement letter will precisely define your professional obligations to a client. In so doing, it will also discourage a client from asserting a meritless claim, and it will form the basis for a dismissal of a meritless lawsuit against you. Conversely, the lack of an engagement letter may result in a confused or unhappy client, and may set the stage for meritless and possible protracted litigation.

## NSA Encourages You to Use an Engagement Agreement

Especially nowadays with so many IRS changes and you and your staff being relied upon as “experts,” working without written engagement agreements can put your business on the wrong end of a dispute with a client over their expectations. Clients may assume that you are automatically making applicable adjustments resulting from new IRS rules, but they don't always disclose circumstances in their lives or businesses that might warrant revisions.

Even though you're likely discussing needed changes, not documenting the services you agreed to perform could leave you defending a “he said, she said” scenario in a lawsuit. NSA members can [sample engagement letters](#) sample engagement letters to find several verbiage suggestions.

## Consider a Written Confirmation Supplement

If you perform a one-time service or revision for a client, such as making an accounting or tax status method modification, it usually isn't efficient to create a revised engagement agreement. Still, it's prudent to have those agreed-to changes acknowledged in writing by the client in order to protect yourself in the future. If your client becomes mentally ill, dies, or sells the business, you may end up



dealing with the client's guardian, heirs or new owners.

A common type of errors & omissions claim against tax preparers and accountants involves future parties challenging whether the client was “in his right mind” or alleging that the client was misdirected or unaware about making a change to a method.

Without having to call a formal sit-down meeting to sign a new agreement, consider as a “supplement” to your engagement an email exchange with your client that acts as a way of you both acknowledging a change. It can be informal and chatty, while stating what you discussed and why (and comments, if your recommendation differed from their wishes). But it should also ask for a confirmation of agreement. You might add something like this: “Please reply and confirm that you agree with this change, or let me know if you have further questions.”

At the very least, document each conversation about changes with a date and time, and retain it in the file. Such documentation is valuable protection in the event of a claim, even if you choose not to use written agreements or confirmations. In the end, our job at Forrest T. Jones & Company is to help you mitigate the risks that could harm your business and offer suitable protection if there is unintentional negligence.

National Society of Accountants members can download sample engagement letters below:

- Sample Engagement Letter for Audit
- Sample Engagement Letter for Compilation
- Sample Engagement Letter for Tax Preparation
- Sample Engagement Letter for Bookkeeping

Continued on page 7

- Sample Engagement Letter for Estate Planning
- Sample Engagement Letter for Litigation Support
- Sample Engagement Letter for the Attest Service Known as a Review
- Engagement Letter Matrix: General Topics to Address and include in Engagement Letters

[Download](#) from NSA MemberConnect.

### Prepare a tailored engagement letter for every engagement

To help you prepare the proper engagement letter, we have gathered relevant information and model engagement letter provisions for you review. Tailor them for your specific requirements. [Download](#) your guide to help you create effective engagement letters .

### ELEMENTS OF AN ENGAGEMENT LETTER

An engagement agreement is your opportunity to come to a formal understanding with your client regarding the scope of the engagement, as well as your opportunity to have the client agree, in writing, that he or she is explicitly aware of the limitations of the engagement.

In litigation, cases often come down to believability of witnesses based upon alleged oral conversations that occurred between the parties. An engagement agreement executed by the client is an important piece of evidence that may contradict what the client could later claim was stated in oral conversations with the accountant.

Always prepare an engagement letter that spells out what services are to be performed and what your fees and expenses are likely to be. It is also beneficial to describe what services you will not perform, as doing so will help protect you from a lawsuit based on services outside the scope of your engagement. Some engagements, such as audits, require that your client sign an engagement letter before you begin providing services while other engagements, such as tax engagements, do not require that your client sign an engagement letter. However, it is still the best practice to have one for every engagement.

Different types of engagements require different engagement letter provisions. For example, the content of a tax return engagement letter will be different from that of an attest services (an audit, review, or compilation) engagement letter. Likewise, consulting services engagement letters will again require language specifically tailored to the services you're being retained to perform.

Some important provisions to place in an engagement agreement include:

A specific and detailed outline of the scope of services agreed to between the parties. You should also include a provision that the scope of services to be provided under the engagement may only be amended under a separate written agreement.

A list of the limitations under the engagement. For example, a client may assume in a business tax engagement that the engagement is supposed to identify employee theft. Your business tax engagement letter should inform the client that the engagement cannot be relied upon to disclose errors, fraud or illegal acts including employee embezzlement or other fraudulent activities.

A statement informing the client that the accountant in a tax engagement is relying upon the accuracy of the information reported by third parties. The engagement agreement should include a provision that acknowledges that the accountant has not been retained to, and will not, conduct analysis or an investigation into the truthfulness or accuracy of the information reported by third parties.

A dispute resolution provision. You may want to have the client agree that any dispute under the engagement be resolved through arbitration, or litigated in a specific jurisdiction that is favorable to the accountant.

It is important that you do not act contrary to the terms of the engagement agreement, since you could later be deemed to have assumed duties and obligations to the client that were not owed under the agreement. Finally, it is important that the client signs the engagement agreement and that you maintain a copy of the fully executed agreement.

When considering engagement letters, remember to:

- Comply with the applicable standards
- Inform your clients
- Limit your risk
- Draft an engagement letter for every engagement
- Consult with your attorney



### About the Authors:

Ronda Jones is a Property & Casualty Business Coordinator for Forrest T. Jones & Company (FTJ). She has 30 years' experience working in professional/E&O coverage lines as an underwriter, broker and in claims administration for a law firm. She has worked with products geared specifically for accountants for 15 years while at FTJ.

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# Seven Big Rules to Follow When Firing a Client



Michael Houlihan and Bonnie Harvey

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Firing a client is one of the most difficult decisions a business owner will ever make. And when push comes to shove, few actually do the deed. First of all, firing clients goes against everything a business owner knows. Clients keep the business going. Clients put food on the table. Clients spread the word and bring in more clients. So, when you consider firing one, it feels like you're purposely harming your business. Second, it's a hard, uncomfortable conversation to have. And that's why so many business owners never do it. They just hope the bad clients will eventually go away.

But the truth is bad clients hurt your company a lot more than they help it. And often, getting rid of them frees you up to do so much more productive work toward building your business that cutting that one terrible client loose means you can bring in several other better clients.

So, how do you do it? Here are seven rules to follow when firing a client:

**Do it in a measured, planned way.** Firing a client should not be a quick decision. If you're angry, cool off before you even think about having this kind of conversation. And when you do it, avoid using the words, "You're fired." You need a plan. You need to know exactly what you're going to say ahead of time so that bad feelings and harsh words don't come into play. So, once you've decided to fire a client, create a plan. Think about when it's best to do it (will a project be coming to an end soon?), where it's best to do it (should you go to them or meet in a neutral location?), and how it's best to do it (what will you say?). Then do it quickly, succinctly, and move along.

**Line up a replacement first.** Close a new client. Then, sit your old client down and say, "We've recently begun work with a new client and due to time constraints will no longer be able to continue our work with you. We recommend that you reach out to [insert competitor]."

**Phase them out.** Explain that you're taking the business in a different direction, and as a result, you're transitioning away from certain projects. Bring any projects you have with them to a closing point and then opt not to renew the contract.

**If you can, give them a time frame.** For example, "In three weeks, Project X will be complete. At that point, we must devote our time to other clients. We wanted to let you know now so that you'll have plenty of time to find another vendor."

**Hand them off.** Set them up with your competition. Yes, you read that right! At first glance, it may seem odd to hand your

Continued on page 9

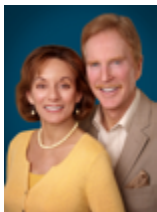
competitors a shiny new client. But think about it. You're not exactly handing over a gem. Let your competitors deal with the client's bad habits. While they do, you'll be growing a much healthier business.

And the great thing about handing clients off to your competition is that you can do so without permanently burning any bridges with the client. Tell them, "I've changed the direction I'm taking my business. I think you'll find that [insert competitor] will be better able to meet your needs at this time."

**Call it like it is.** If a relationship with a client has been especially contentious, the best route may be directness. You might say, "I think you'll agree that our working relationship has become strained. I don't feel that my company can satisfy you. As such, I believe it is best if we cut ties. [Insert competitor] provides similar services to ours. I recommend that you reach out to them for your ongoing needs."

**Tell them how you'll wrap things up.** Clearly state how you'll be bringing your work together to a close. If any of these details are unclear, you run the risk of drawing the separation process out, which won't be pleasant for you or your client. Tell them what duties you'll fulfill and give them a hard end date. Meet those fulfillments and stick to your deadline.

**Stay strong.** It's not uncommon for bad clients to suddenly realize just how wonderful you are as you're showing them the door. They might start to promise that this time they'll really change, offer to pay more, give you a bigger chunk of their business, and on and on. Don't give in. Know that chances are a year from now you'll find yourself in the same situation with them. Let them go and focus your time on clients who appreciate you and your company from the get-go.



#### About the Authors:

Michael Houlihan and Bonnie Harvey coauthor the weekly no-nonsense business blogs at [www.TheBarefootSpirit.com](http://www.TheBarefootSpirit.com) and [www.TheBrandAuthority.net](http://www.TheBrandAuthority.net). For more information, contact [Info@TheBarefootSpirit.com](mailto:Info@TheBarefootSpirit.com).

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# 3 RULES FOR ASKING GREAT TAX RETURN QUESTIONS

Frank Stitely, CPA, CVA

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Asking clients great questions is central to workflow management. Great client questions can save hundreds of hours of time during tax season and prevent projects from falling behind schedule.

Here's an example of questions done badly.

We sponsored a table at a local group's presentation. The group's event coordinator asked me this question.

"What are the names of the people, who will be sitting at your table?"

I responded with the names, and the next day, he replied, "What are the company names as well?"

So why didn't he ask me for that with his first question? Now we've had two e-mail exchanges when only one was necessary. I've been inconvenienced, and since I'm the most important person in the word (to me), I'm not happy.

Tax and accounting firms frustrate clients this way all the time. There are three rules for asking clients great questions.

**Rule #1: Ask for what you really want – all of it.** Here's a perfect example from a newbie tax preparer.

"Did you pay any personal property taxes in 2014?"

What's wrong with this question? He asked a yes / no question when he really wants the amount of personal property taxes paid. Here's a slightly better way to ask this question – although only slightly better.

"Did you pay any personal property taxes in 2014? If yes, how much?"

Continued on page 11

This sounds perfectly reasonable in that he asks for the amount and recognizes that the answer might be zero. What's wrong with this wording? Many, if not most, clients won't read past the first sentence. This wording will still elicit many yes / no answers. Here's a far better way to ask.

"How much in personal property taxes did you pay in 2014, if any?"

We ask for exactly what we want in the beginning of the question, still recognizing that the answer may be zero.

**Rule #2: Can the jargon.** Write like a normal human being, not a preparer moonlighting as a lawyer.

Here's a common question newbies ask.

"What was the adjusted basis of the Ford stock you sold in March 2014?"

Do clients know the meaning of "basis," let alone why you would adjust it? Is the Pope a Baptist? Absolutely not. I still didn't know the meaning of adjusted basis five years after starting my practice. You could argue I still don't. Let's try this again without the jargon.

"How much did you pay for, and when did you buy, the 100 shares of Ford stock you sold in March 2014?"

If you provide the page from the 1099-B showing the stock sale, you get extra credit. This way the client knows that he actually sold stock, and won't waste your time telling you that he never owned Ford stock, which he certainly will tell you otherwise.

**Rule #3: Explain why you need information.**

For deductions and income, this is mostly unnecessary. Clients like deductions, after all, and reluctantly understand that they have to claim income. However, we explain "why" when we ask for information and suspect a client may offer some pushback. When we ask corporate tax clients for items like bank statements and credit card statements, we use the following wording.

"Please provide the December 2014 bank account statement for your business checking account. We need this to prepare a balance sheet, which is a required part of a corporate tax return."

This wording prevents a client from asking if the information is really necessary and saves you a round of additional questions.

On March 28th, drafting perfect tax return questions is a dream. Before tax season weighs you down, standardize the questions you commonly ask.

Standardizing the asking of excellent questions can save your firm hundreds of hours and speed your project turnaround, which will delight your clients. Not to mention the very real benefit of preserving your sanity during tax season.



#### About the Author:

Frank Stitley is a Certified Public Accountant with 26 years tax experience and a Certified Valuation analyst with 12 years' experience in business valuation. His speaking engagement topics have included the following: Business Valuation, Buying and Selling Businesses, Preventing Fraud in Small Businesses, and Income Taxes for Small Businesses and Individuals Effective Accounting Software for Small Businesses.



# Learn to Love Frustration — or Fix your Workflow

Frank Stitely, CPA, CVA

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You already know the definition of insanity and Dr. Phil's tag line, "How's that working out for you?" So if last tax season made you feel like the last guy bailing water when the Titanic sank, maybe it's time for a change. Maybe you know it's time for a change, but don't know how to get started. Here's a hint. To fix your workflow, you have to know your workflow.

The first step in fixing your workflow is defining what you have now. You already have a workflow management system, whether you know it or not. When a client calls about the status of a return, your associated workflow step could be as simple as running down the hall waving your arms yelling, "What godforsaken idiot has his file?" Hopefully not.

Defining your current workflow is simple and the only way you can make progress fixing it. The primary obstacle in fixing your current workflow situation is owning up to it.

The first step in defining your current workflow is to make a list of all the services you provide. You will compile a list of services like compiled financial statements, corporate tax returns, individual tax returns, etc. Each type of service is a project type. Each project type will have an associated workflow distinctly separate from the others.

Next, select one of the project types, and create an Excel spreadsheet with the following columns:

1. Task performed
2. Person

You will then list each of the tasks involved in performing this service. You could go crazy creating tasks like "walking the return down the hall to preparer." However, that's probably a bit too granular. You are trying to strike a balance between enough information and slavery to your workflow system. I suggest asking the question, "Would I ever want to know which returns are in this stage?" If the answer is yes, you have a task. If no, skip it.

The best way to define the tasks / steps is to actually log the processing of a real live tax return. Let's use personal income tax prep as an example. This could be your log.

1. Client brings in documents for meeting.
2. Documents sent to admin for scanning. (Assuming up front scanning)
3. Admin sends e-mail to partner that documents have been scanned and are ready for preparation.
4. Partner reviews scanned file for completeness and obvious return issues and makes notes for preparer in Word.
5. Partner sends e-mail to preparer that return can be started.
6. Preparer enters information in tax software.
7. Preparer compiles questions list and notifies partner that questions are ready to be sent to client.
8. Partner reviews and sends questions to client by e-mail or phone.
9. Client answers questions. (such a simple description of such an emotionally charged process.)
10. Partner reviews client answers for completeness.

Continued on page 13



11. Are the answers complete?

If yes, partner forwards them to the preparer.

If no, partner follows up with client for answers.

12. Client forwards final answers after a week of brow beating and begging.

13. Preparer completes return and notifies partner return is ready for review.

14. Partner reviews return.

If no changes necessary, partner forwards to admin for final production.

If changes necessary, return to step #13.

15. Admin prints final version of return and notifies partner return is ready for pickup.

16. Partner calls client to determine if client wants meeting to review return.

If meeting desired, partner schedules it.

If no, partner sends return to admin where client will pick up.

17. Client either picks up return or meets with partner.

If picked up, client signs 8879 for admin and pays bill. (Sure that will happen. You can bet he forgot his checkbook and you don't accept credit cards.)

If meeting with partner, client signs 8879 and pays bill. (Payment is even less likely as partners hate to grovel for money.)

18. Admin e-files returns.

19. Admin checks for e-file acceptances.

If accepted, client gets e-mail notification.

If not accepted, admin contacts partner for resolution.

Wow – 19 steps and I wasn't even really trying. No wonder it's so damn hard to make money in this business. Do I think this is a good workflow process? Definitely not! But it certainly resembles the actual process in many if not most firms.

Now that we have the current workflow defined, it's time to improve it.

An efficient workflow has two primary tenets. First, tasks should be performed by the least expensive staff capable of performing the task. Second, tasks must either deliver value to a client or be required for regulatory purposes.

Now that you have defined your workflow, the next step in the improvement process is to mark which staff performs each task in your workflow. You can start out with the actual names. Then come back and substitute position, such as admin, tax preparer, reviewer, or partner, for each step. We do this to de-personalize our analysis. This isn't about individual people, it's about finding the right level person for each task.

For instance, many firms have preparers scan their own documents before beginning the tax preparation process. Is there anything inherent in scanning that requires a \$50K per year person? Absolutely not. While I'm certain an expensive tax preparer will likely do a great job scanning, that's not what you need them for. They should be preparing returns. Scanning should be done by a less expensive clerical employee. This is how you cut cost from a process.

Final production of a tax return is similar. If you have preparers either printing (God forbid at this point in the 21st century) or e-delivering tax returns directly to clients, you are wasting money. Yes, this is a bit more difficult than scanning, but it's still within the capabilities of an admin person with a little training and a good process in place.

Another great task for admin staff is e-filing and tracking acceptances and rejections. No they can't fix the rejections, but they can notify the return preparer when a rejection happens and follow up to see that it is resolved.

Successfully delegating tasks down the firm structure requires: training and standardized processes. If you build complexity into a task definition, you will not be able to delegate it down to the appropriate level. Let's look at delegating scanning as an example.

The key to making scanning an admin task is removing complexity. You cannot ask admin staff to make judgment decisions

Continued on page 14

about what should be scanned and what should not. You have to define it for them since they don't know what documents matter and which are junk. Have them err on the side of scanning everything unless clearly inconsequential. Preparers can easily ignore the pages they don't need.

The second tenet of an effective workflow strategy is tasks must either deliver value to a client or be required for regulatory purposes.

Go through the workflow you defined and write next to each step whether the step delivers value to clients or is required for regulatory reasons. If a step delivers value to a client, write down the value it delivers. If required for regulatory reasons, write down why it's required. If you are laboring to determine if a step delivers client value or is required, you have a good candidate for a step to be eliminated.

If you have a step such as a client meeting to kick off the tax prep process, consider whether a client meeting is really the first step, or if the first step is really more generic such as simply receiving documents by some means from a client.

The final piece to reengineering your workflow is to determine which steps you want to track. In other words, when a project is at a particular step, do you care? For instance, a tax preparer might go through stages of entering first wages and then interest and then dividends. These stages are not good workflow steps as you probably don't care when the preparer is entering wages versus dividends. It is all just initial prep. So initial prep is your workflow step. Here's an example from our workflow with some notes.

Note how many tasks are performed by admin. Also, the person in charge is potentially involved for just three tasks: asking questions, reviewing a return, and posting the draft. Two of the three involve critical client contact.

Step	Person	Benefit
Client to provide docs	person in charge	Can't start without docs
Scanning	admin	Ditto above
Autoflow	entry level	Import info to tax prep program
Initial prep	preparer	Basic data entry
Draft questions	person in charge	Stops crazy questions from going to client
Waiting on answers	preparer	Waiting on client answers
Second prep	preparer	Incorporates client answers
Review	person in charge	Stops mistakes on return
Review complete	preparer	Corrects mistakes caught on review
Draft to client	person in charge	Client review to get over shock and awe
Final production	admin	Post returns to portal for client
Need e-file papers	admin	Waiting status for signed 8879s
Waiting on payment	admin	Not going to be filed until paid
Filed waiting on ACK	admin	E-filed needing acceptance

Hopefully, you can see that improving your workflow isn't that difficult. Follow the three steps:

1. Define your current workflow.
2. Push tasks down to the lowest staff level that can complete the task.
3. Eliminate tasks that deliver no value to clients or aren't required by regulation.



#### About the Author:

Frank Stitley is a Certified Public Accountant with 26 years tax experience and a Certified Valuation analyst with 12 years' experience in business valuation. His speaking engagement topics have included the following: Business Valuation, Buying and Selling Businesses, Preventing Fraud in Small Businesses, and Income Taxes for Small Businesses and Individuals Effective Accounting Software for Small Businesses.

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# **Internal Revenue Service Issues Stern Warning To Non-Compliant Taxpayers With Offshore Holdings**

**Matthew D. Lee**

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Just one day after the Oct. 15 deadline for filing personal income tax returns on extension, the Internal Revenue Service issued a strongly-worded warning to non-compliant taxpayers: take action now to fix your problem, or face serious consequences. At the same time, the IRS revealed, for the first time, that nearly 85,000 taxpayers have taken advantage of voluntary disclosure programs for unreported offshore assets over the course of the last seven years. The IRS also disclosed that it has conducted “thousands” of offshore-related civil audits of taxpayers, resulting in the payment of “tens of millions of dollars” to the U.S. Treasury.

In a press release dated Oct. 16, 2015, and entitled “Offshore Compliance Programs Generate \$8 Billion; IRS Urges People to Take Advantage of Voluntary Disclosure Programs,” IRS Commissioner John Koskinen touted global cooperation among nations to automatically exchange tax information as providing tax authorities around the world, including the Internal Revenue Service, with substantial greater leverage to combat tax evasion:

[“The groundbreaking effort around automatic reporting of foreign accounts has given us a much stronger hand in fighting tax evasion. People with undisclosed foreign accounts should carefully consider their options and use available avenues, including the offshore program and streamlined procedures, to come back into full compliance with their tax obligations.”](#)

The IRS announced updated statistics regarding participation in its offshore voluntary disclosure programs, which have existed since 2009. More than 54,000 taxpayers have utilized the formal IRS amnesty program, called the Offshore Voluntary Disclosure Program (OVDP), paying more than \$8 billion in taxes, penalties and interest to the U.S. Treasury. In addition, the newer streamlined filing compliance procedures (initiated in 2012 but not fully clarified and expanded until June 2014)

Continued on page 17

have been exceedingly popular with noncompliant taxpayers. The streamlined program, which is designed for “non-willful” taxpayers, has seen more than 30,000 applicants, with two-thirds of those submissions made since June 2014 when the streamlined eligibility criteria were expanded.

These statistics demonstrate overwhelming interest in the streamlined procedures, while applications for the formal OVDP appear to be waning. Prior to announcement of the streamlined procedures, the IRS received withering criticism for the OVDP’s “one-size-fits-all” penalty structure that contained no mechanism to distinguish between individuals who had engaged in outright tax evasion and those taxpayers whose noncompliance was due to “non-willful” conduct, such as a good faith misunderstanding of the law. The streamlined program was designed to provide an alternative to the perceived harsh treatment accorded OVDP participants, and judging by the statistics announced today, it appears that the vast majority of taxpayers who have taken action in the past year have rejected the OVDP option and instead elected for streamlined treatment. Curiously absent from the recent IRS announcement is any discussion of the number of taxpayers whose streamlined applications were rejected. The streamlined program application ominously warns that taxpayers whose conduct is not genuinely “non-willful” risk being rejected from the streamlined program and subject to audit or criminal investigation. The IRS is undoubtedly scrutinizing streamlined applications in an effort to ensure that “willful” taxpayers are not able to “sneak” through the less rigorous program alternative. The IRS also has not provided any statistics regarding the number of taxpayers who have utilized the disfavored (in the eyes of the IRS) “quiet disclosure” path, although tracking such taxpayers is admittedly difficult given the nature of such disclosures.

The recent announcement by the IRS makes clear the risk to noncompliant taxpayer because of global developments regarding the automatic exchange of tax exchange now in effect. Both the Foreign Account Tax Compliance Act, which is now fully effective, and the OECD’s common reporting standard, which starts to become effective in 2016, are mechanisms to provide tax authorities throughout the world (including the U.S.) with information about taxpayers with offshore assets:

[Under the Foreign Account Tax Compliance Act \(FATCA\) and the network of intergovernmental agreements \(IGAs\) between the U.S. and partner jurisdictions, automatic third-party account reporting began this year, making it less likely that offshore financial accounts will go unnoticed by the IRS.](#)

Also, the U.S. Justice Department’s Swiss Bank program is another way in which the U.S. will obtain a significant amount of information regarding U.S. taxpayers with Swiss bank accounts:

[In addition to FATCA and reporting through IGAs, the Department of Justice’s Swiss Bank Program continues to reach non-prosecution agreements with Swiss financial institutions that facilitated past non-compliance. As part of these agreements, banks provide information on potential non-compliance by U.S. taxpayers. Potential civil penalties increase substantially if U.S. taxpayers associated with participating banks wait to apply to OVDP to resolve their tax obligations.](#)

The overwhelming success of the IRS voluntary disclosure initiatives (both OVDP and the streamlined program) is unquestionably attributable to the U.S. government’s use of a traditional “carrot and stick” approach. With OVDP and the streamlined program representing the “carrot” used to entice noncompliant taxpayers to take action and return to tax compliance, a robust enforcement agenda carried out by the IRS, working hand-in-hand with the Justice Department, represents the “stick.” Enforcement actions in this area consist of both criminal and civil proceedings. The DOJ’s Offshore Compliance Initiative proclaims that “[o]ne of the Tax Division’s top litigation priorities is combatting the serious problem of non-compliance with our tax laws by U.S. taxpayers using secret offshore bank accounts” and maintains an updated list of offshore criminal prosecutions on its website. The recent IRS announcement reveals that the IRS has conducted thousands of civil audits in this area:

[Separately, based on information obtained from investigations and under the terms of settlements with foreign financial institutions, the IRS has conducted thousands of offshore-related civil audits that have produced tens of millions of dollars. The IRS has also pursued criminal charges leading to billions of dollars in criminal fines and restitutions.](#)

Finally, while acknowledging the reality that the Internal Revenue Service has faced years of budget cuts and deep declines in its workforce (both civil revenue agents and criminal special agents), the announcement warns that the agency remains vigilant and aggressive even while resource-constrained:

[The IRS remains committed to stopping offshore tax evasion wherever it occurs. Even though the IRS has faced several years of budget reductions, the agency continues to pursue cases in all parts of the world.](#)

U.S. taxpayers with undisclosed offshore accounts or assets should well heed the warning from the IRS. With the

Continued on page 18



implementation of tax exchange mechanisms such as FATCA, and other enforcement initiatives like the Swiss Bank program, the IRS has access now to far more information about the offshore activities of U.S. taxpayers than ever before. And noncompliant taxpayers who fail to take voluntary, corrective action now will surely face harsh consequences when they are invariably discovered by the IRS or other tax authorities.



#### About the Author:

Matthew D. Lee, partner at Blank Rome Counselors at Law, is a former U.S. Department of Justice trial attorney who concentrates his practice on all aspects of white collar criminal defense, federal tax controversies, financial institution regulatory compliance, and complex civil litigation.

Mr. Lee is the author of *The Foreign Account Tax Compliance Act Answer Book 2015* (published by the Practising Law Institute), a definitive treatment of the due diligence, withholding, reporting, and compliance obligations imposed by FATCA on foreign financial institutions, non-financial foreign entities, and withholding agents. For more information on this publication, please [click here](#).

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# Apps for Accountants and Tax Professionals

Pat Friesen

You can get more value from your smartphone and tablet when you arm them with the right apps. Some of these are free, some have free versions, and others provide big benefits with modest price tags.

## MANAGE PASSWORDS SECURELY & EFFICIENTLY

Accounting professionals typically have a lot of passwords to remember — everything from client logins to internal systems, even personal accounts. According to Allyson Kazmucha in [Best apps for accountants and bookkeepers](#), [1Password](#) is an efficient way to manage passwords and keep files secure with strong ones. “1Password is a safe and secure place to store them all without worrying about whether or not they’re going to fall in the wrong hands. You only need to remember one master password. 1Password can also help you generate strong passwords so you can rest easy knowing your sensitive information is as secure as possible.”



## CAPTURE RECEIPTS FOR EASIER EXPENSE REPORTING

[Xpenditure](#) automates expense tracking from receipt to report on iPhones and Androids. Simply take a photo of your receipts with your smartphone and Xpenditure’s intelligent scanning extracts the relevant data. You can add more information such as project or category. Use your online account to manage expenses, advances, mileage, even time-tracking. Generate expense and reimbursement reports with just a few clicks and export expenses to PDF, CSV or your favorite accounting software. You’ll be a hero with your clients when you tell them about this one.

## MAKE ON-THE-SPOT FINANCIAL CALCULATIONS

[The Pro Edition of the powerOne Financial Calculator](#) is described as “the best financial calculator app” by Worldwide

Continued on page 19

Tech and “the crème de la crème of calculators” by AppAdvice. Its pre-installed templates cover all facets of finance and business including 401k calculations, auto loans and leases, bonds, breakevens, currency conversion, cash flow — NPR, NFV, IRR, and much more. You also have access to hundreds of additional templates in the powerOne Library. If you’re calculating an amortization or a loan, it can even produce graphs to help your clients visualize the data you’re explaining. Versions are available for both iPhone/iPad and Android.

## MANAGE BUSINESS CARDS BETTER

With so many business cards in your desk drawer and so many apps available to help you manage them, check out Melissa Pereson’s COMPUTERWORLD review — [7 business card apps for smartphones — Scan ’em and store ’em](#). It’s a helpful comparison of seven popular apps Pereson tested on iOS and Android mobile devices. Apps reviewed: [ABBY Business Card Reader](#), [Business Card Reader](#), [CamCard](#), [Presto BizCard](#), [ScanBizCards](#), [WorldCard Mobile](#), and [Yolu Card Reader](#).

## SCAN & SEND DOCUMENTS ON-THE-GO

Financial paperwork often requires client signatures and the filling in of information. [Scanner Pro](#) makes it easy to take photos of signed documents, then upload files to the cloud, email, print, or share them in other ways. This app transforms your iPhone or iPad into a portable handheld scanner.



### About the Author:

Pat Friesen is a contributing writer to this blog with 30 years of direct response copywriting experience selling insurance and other financial services to consumers and owners of small to mid-size businesses. She’s also a columnist for several direct marketing trade publications.

# • ALL AROUND NSA

## • Resources for your business

### NSA Scholarship Foundation Accepting Applications for 2016 Scholarships Until March 31, 2016

#### *Accounting Students Can Apply Online for NSA Scholarship Foundation Awards*

The National Society of Accountants (NSA) Scholarship Foundation is now accepting applications for 2016 scholarships from promising accounting students across the country. Scholarship applications are due March 31, 2016.

The Foundation awards scholarships to undergraduates who are U.S. or Canadian citizens majoring in accounting at an accredited two- or four-year college or university in the United States. Since its formation in 1969, the NSA Scholarship Foundation has awarded over \$1 million to dedicated students pursuing a career in the accounting profession.

“Accounting is a growing field and an outstanding career opportunity for students interested in this work,” says NSA Scholarship Foundation Chair Sharon E. Cook, EA, ABA, ATA, ATP, ARA St. Louis, “We also see the rising cost of higher education and hope we can make it easier for some of these students to achieve their goals.”

Applicants for awards are judged on the basis of scholastic achievement, demonstrated leadership ability, and financial need. They must have a “B” (3.0 on a 4.0 scale) or better grade point average.

Scholarships typically range from \$500 – \$2,500. In 2015, the Foundation awarded \$45,875 to 39 deserving candidates.

Interested accounting students can apply online, review application guidelines and get additional information at: <http://www.nsacct.org/scholarships>.

For students nearing graduation or new to the accounting profession, the Accreditation Council for Accountancy and Taxation (ACAT), which is affiliated with NSA, offers an Accredited Business Accountant (ABA) credential. Learn more at [www.acatcredentials.org](http://www.acatcredentials.org).

[Click here to apply for the 2016 scholarship online.](#)

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### TENTATIVE SCHEDULE

**Monday – Wednesday, 8/15-8/17**

*Enrolled Agent Exam Review Course; Accredited Tax Preparer Exam Prep & Exam*

**Wednesday 8/17**

*NSA Board Meeting and Welcome Reception*

**Thursday 8/18**

*NSA Business Meetings & Elections*

**Friday 8/19**

*CPE Day One: Accounting, SSARS 21, Retirement & Estate Planning*  
featuring Joe Santoro and Steve Siegel

**Saturday 8/20**

*CPE Day Two: Ethics, Due Diligence, Practice Management-Marketing, Social Media & Technology, Positioning Your Practice for Growth*  
featuring Karen Hawkins, Katie Tolin and Josh Dye

*This year's presenters include:*



Karen L. Hawkins is a former Director of the IRS Office of Professional Responsibility. Prior to taking that position in April, 2009, Ms. Hawkins was in private practice at the Oakland, California, law firm of Taggart & Hawkins where she specialized in civil and criminal tax controversy cases for nearly 30 years.

She has been a frequent speaker and writer on a variety of diverse tax law topics including: Innocent Spouse Relief, Attorney's Fees Awards; Collection Due Process; Civil and Criminal Tax Penalties; Tax Court Litigation; International Tax issues and Ethics in Tax Practice. Ms. Hawkins has a number of reported precedent-setting tax cases to her credit in the US Tax Court and Ninth Circuit Court of Appeals.

Ms. Hawkins holds several degrees including: MBA in Taxation, J. D. and M.Ed. Among her many honors and awards are: V. Judson Kelin Award from the California Bar's Taxation Section and the National Pro Bono Award from the ABA's Taxation Section.

Continued on page 22



Joseph L. Santoro is a certified public accountant, an AICPA member, and, since 1981, a member of the National Society of Accountants. In addition to an MBA degree, Mr. Santoro holds certificates as a Certified Valuation Analyst, Accredited Business Advisor, and Master Analyst in Financial

Statement Forensics. A former two-term NSA District 1 Governor, he has chaired numerous NSA committees, including Budget, Education, National Affairs, and Peer Review. Currently he is chair of NSA Accounting Standards Committee and serves also as a member of the Board of Directors for the Accreditation Council for Accounting and Taxation [ACAT], where he has for many years worked as a subject matter expert for its credentialing examinations.

Although retired from the CPA practice he founded more than 30 years ago, Mr. Santoro, who is known nationwide as an author and lecturer for Gear Up, with which he has been associated for more than 20 years, continues to provide lectures on Accounting and Taxation at more than 80 seminars each year.

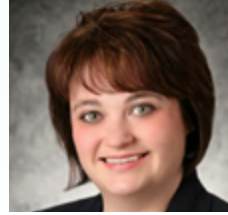


Steve Siegel is president of The Siegel Group, a Morristown, New Jersey-based national consulting firm specializing in tax consulting, estate planning and advising family business owners and entrepreneurs. Mr. Siegel holds a B.S. from Georgetown University, a J.D.

from Harvard Law School, and an LL.M. in Taxation from New York University. Mr. Siegel is the author of many books, and a nationally-recognized speaker who has lectured extensively throughout the United States on tax, business and estate planning topics. Mr. Siegel has served as an adjunct professor of law at Seton Hall and Rutgers University law schools.



Josh Dye is the founder and president of Convene, LLC, a speaking, training and consulting company. Josh is a dynamic speaker who specializes in effective marketing and communications strategies. Convene helps its clients set up and improve websites, e-newsletters, blogs, videos, social media, and marketing campaigns.



Katie is a past president of the Association for Accounting Marketing, and for the past two years, Accounting Today named Katie one of the top 100 most influential people in accounting and she was one of CPA Practice Advisors' Most Powerful Women in Accounting in 2015. In addition, she was named Accounting Marketing of the Year in 2010 and has won a total of 12 Marketing Achievement Awards from the Association for Accounting Marketing and a Silver Quill and Best of Division award from the International Association of Business Communicators. Katie is also a contributing author to *Bulls-Eye: The Ultimate How-To Marketing & Sales Guide for CPAs*.

## Enrolled Agent Exam Review Course Presenters



William A. Duncan, CPA, Ph.D., is an Associate Professor of Accounting at Arizona State University. Dr. Duncan was formerly a Director with Ernst & Young where he guided tax education for the firm. He is the author or co-author of three textbooks and has published a number of articles on a variety

of tax topics in publications ranging from Taxes and The CPA Journal to the Journal of the American Taxation Association. He has taught in the AICPA National Tax Education program for over 20 years.



John O. Everett, CPA, Ph.D., is Professor Emeritus of Accounting at VCU in Richmond, VA. John's teaching specialty is federal taxation. He has authored or co-authored over 90 articles in academic and professional journals including the NSA EA Exam Review Course and 1040 101 Course, and is the

coauthor of several textbooks, including CCH Practical Guide to Schedule M-3 Compliance, The HBJ Federal Tax Course, Income Tax Fundamentals, and Tax Planning With the Computer.



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### NSA Enrolled Agent Exam Review Course & Accredited Tax Preparer Exam Review/Exam

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##### *On-site ATP exam*

#### Wednesday, August 17:

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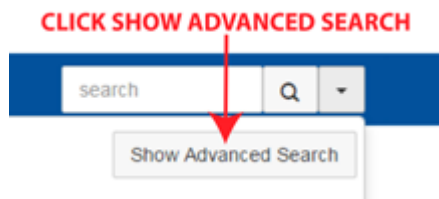
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First, click the arrow to the right of the search box magnifying glass on any page.



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This is the [ultimate tool](#) for power searching the MemberConnect site. All you have to do is use the dropdown menus to narrow down your search. Try using the powerful, expanded search functions of MemberConnect the next time you visit the site.

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## NSA CHOOSE A TAX PRO WEBSITE

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Did you know about NSA's consumer website, [www.chooseataxpro.org](http://www.chooseataxpro.org)? The site provides valuable information about hiring a tax professional, offers tax tips and, most importantly, includes a link to Find a Professional—NSA's member directory. This is a great opportunity to promote your practice so make sure you take a few moments to update and refresh your profile on NSA MemberConnect.

Your profile page is completely customizable... A more complete profile can increase your click through rate and number of leads that are generated by searches. Your profile already includes your contact information.

Here are some things you can add to your profile:

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# NSA MEMBER TAX RESOURCES



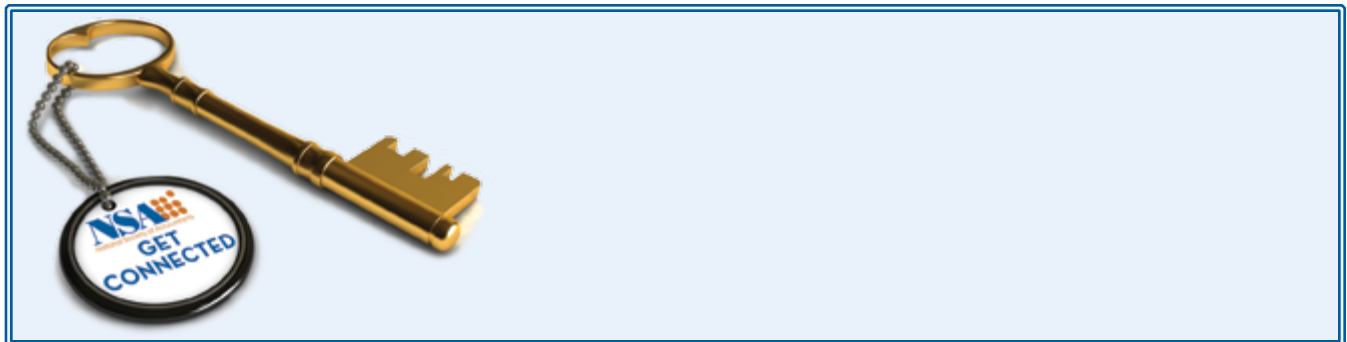
*Whatever it takes, NSA is here for you this tax season!*

Now that tax season is upon us, there's no better time to make the most of your NSA membership and get connected to the people, programs, information, and resources to help you get answers you need and save you time.

Your Tax Season Benefits Quick Links:

- **NSA Tax Help Desk:** Active & Associate members, get up to five tax questions answered free.
- **NSA Tax Talk:** It's not only in your inbox...You can search the Tax Talk archives anytime online by topic or keyword.
- **CCH Tax Center:** Get code, regs, court cases, daily tax news, briefings, and tax alerts.
- **Income & Fees Survey Data:** Know what your competition is charging with the latest data that includes fees for tax preparation and other services broken down by state, geographic region and practice size.
- **NSA Resource Libraries:** Download sample client, disclosure, and engagement letters, the 2015 tax organizer and more.
- **NSA Bookstore & Discounts:** Save on CCH publications and Master Tax Guide, Quickfinder, TheTaxBook; RIA/PPC, office supplies, credit card processing, client newsletters, shipping, and much more!
- **Technology Search:** Need help finding the right accounting or tax software for your practice? Get a free Technology Search to help you.
- **2015 Federal Tax Key Facts and Figures:** A quick reference guide for income tax rates and more.

Whatever it takes. NSA is here for you! If you have any questions about your NSA membership, please contact NSA Member Services toll-free at 800-966-6679 or email [members@nsacct.org](mailto:members@nsacct.org).



NSA's tax research team is busy helping members answer the toughest Federal tax questions.

# Tax Tips

In this issue of Main Street Practitioner, we are featuring answers to three of the most commonly submitted questions to the NSA Tax Help Desk. Also in this issue, we feature two checklists prepared by the Tax Help Desk:

*Checklist of Profit Motive Factors for Hobby Loss Rules*

*Checklist for Items That Should Be, or Can Be Addressed in the Corporate Minute Book*

A question that the NSA Tax Help Desk seems to answer almost daily, or at least it feels like it...is:

**Q:** Can an S-Corp shareholder reimburse, himself or herself for health insurance premiums paid personally and still obtain the benefits of the self-employed health insurance deduction under IRC Sec 162(l) on the front page of their individual Form 1040?

**A:** Yes, as long as the shareholder is the only employee of his or her S-Corporation. If he or she has even one other employee, including a spouse, then the "reimbursement" plan will be a problem.

The whole issue is a result of provisions within the Affordable Care Act (ACA) and the IRS guidelines that were issued under IRS Notice 2013-54, but whose effects were postponed through the end of 2015. The relief from the penalties imposed under IRC Sec 4980D were granted under IRS Notice 2015-17, but only through the end of 2015.

Therefore, as of January 1st and until any extension is granted, if any, the S-Corp shareholder with at least one other employee, other than themselves, is no longer allowed to "reimburse" themselves for health insurance premiums paid outside of the corporation.

This action, even if they were to include reimbursements for their employees too, would be in violation of an ACA provision that could result in the assessment of the \$100/day per employee penalty under IRC Sec 4980D.

**Q:** Another common question in the last couple of months involves corporate liquidations – either C-Corp or S-Corp and the distribution of assets in liquidation of a shareholders' interest or stock in the entity. Is this a taxable event and if so how is it taxed??

**A:** The distribution of any appreciated asset out of a C-Corp or an S-Corp, either in liquidation or not, is a taxable event to the corporate entity. The corporation is required to treat the distributed asset as if it were sold to the shareholder at its fair market value (FMV). Therefore the corporation must recognize a gain on the difference between this FMV and the assets cost basis, less depreciation, if any. This "deemed" sale is reported on the corporations' Form 4797.

The provisions of this rule are governed under IRC Sec 311(b) and additionally with S-Corps under IRC Sec 1371.

Unfortunately, this is just the first part of a two (2) part taxable event. The "fair market value" (FMV) of the distributed assets also has to be treated as proceeds in liquidation, reported on the Form 1099-DIV, in Box 9 – and will be a part of the shareholders' liquidating gain/loss on Schedule D of their Form 1040. The FMV of any asset, plus any cash distributed in liquidation is compared to the shareholders' basis in their stock for purposes of this gain/loss.

If the distributed asset is not part of a liquidation then it would need to be accounted for by the shareholder as either compensation, a loan or loan repayment, or potentially a distribution against basis, if the entity is an S-Corp with a positive balance in the corporate "accumulated adjustments account" (AAA).

With the "information return" season in full swing, the NSA Tax Help Desk gets Form 1099 issue questions this time of the year.

Active, Associate and Life members of the NSA get five questions answered per year free. Visit [Tax Help Desk](#) for more information and to submit questions online.

Continued on page 27

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# Tax Tips

**Q:** Does a taxpayer, in the course of their trade or business, have to issue a Form 1099-MISC to a supplier or contractor if they pay that person via credit card, debit card or pay pal? Again, we are assuming that the payment exceeds \$600 and it not being paid to a “corporate” entity.

**A:** Apparently not! Whereas, the general rule under IRC Sec 6041(a) and Sec 6041A(a) which requires the issuance of the Form 1099-MISC when a payment is made that meets the requirements of those two (2) code sections, is overridden or replaced by the Form 1099-K and IRC Sec 6050W – when those payments are made via a credit card, debit card or thru PayPal.

The fairly recent introduction of the Form 1099-K and the common use of third-party payment networks like Pay Pal have shifted the reporting requirements from the “business owner” to these payment organization and/or the credit card companies.

So the bottom line is... if you pay your independent contractor or supplier via Pay Pal or with your credit or debit card, you no longer are required to issue them a Form 1099-MISC – per IRS Reg. 1.6041-1(a)(1)(iv). This responsibility now becomes that of this third-party organization and the Form 1099-K.

# Checklists

## Checklist of Profit Motive Factors for Hobby Loss Rules

*The hobby loss rules under IRC Sec 183 can be an issue in a few industries that seem to draw more attention than others...*

Examples of possible [Code Sec. 183](#) activities include, but are not limited to:

- fishing,
- horse racing,
- horse breeding,
- farming,
- motor-cross racing,
- auto racing,
- craft sales,
- bowling,
- stamp collecting,
- dog breeding,
- yacht charter,

Continued on page 28



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# Checklists

- artists and entertainers,
- gambling,
- direct sales,
- photography,
- writing,
- airplane charter, and
- rentals

*So then how does one overcome this presumption of “hobby” vs that of trade or business activity... the following checklist may be able to help with this issue?*

- The manner in which the taxpayer conducts the activity. Is there a legitimate intent to make a profit? Are accurate books and records maintained?
- The expertise of the taxpayer. Does the taxpayer have any prior experience, do they seek the advice of others?
- The time and effort expended by the taxpayer in the activity. Does the taxpayer spend substantial time in the activity? Were employee's hired to assist in the operations?
- The expectation that assets used in the activity will appreciate.
- The prior success of the taxpayer in a similar or dissimilar activities. Has the taxpayer turned an unsuccessful business into a profitable one?
- The history of the taxpayer in generating significant profits.
- The relationship of the profits to the losses. Are the profits occasional in relation to years of larger losses?
- The overall financial status of the taxpayer. Does the activity mean something to the taxpayer? Is it a source of needed cash flow or revenue?
- The activity has a meaningful part of the taxpayers' overall financial plan.
- The profit motive or business purpose outweighs any elements of personal pleasure or recreation associated with the activity.

This list is not an all-inclusive list and no single factor weighs more or less than another. This is a highly litigated issue in the arena of taxation and there are hundreds, if not thousands of tax cases and court rulings that consider all of the facts and circumstances of any particular case.

This checklist is just a compilation of a lot of the issues and points that have been argued in the cases over the years – so treat them as a guideline.

*See page 29 for the Checklist for Items That Should Be, or Can Be Addressed in the Corporate Minute Book*

# Checklists

NSA's tax research team is busy helping members answer the toughest Federal tax questions. Here are two handy checklists.

### **Checklist for Items that Should Be or Can Be Addressed in the Corporate Minute Book**

The corporate minute book is a necessary evil of being an owner of a corporation. It may seem to be a waste of time but it could be a vital piece of evidence given any number of events in the business world.

The documentation of corporate procedures, policy decisions, asset acquisitions, hiring's and firing's, tax decisions and any number of other corporate activities could prove invaluable with future events.

Here is a list of items, events or situations that would warrant an entry in the old "corporate minute book":

- When a new officer or shareholder of the corporation is selected.
- When an officer or shareholder retires, passes-away or sells their stock.
- When any changes or modifications in officer or employee compensation plans are made.
- When any bonuses are announced, accrued or otherwise paid.
- Justification for any of the changes in salary, bonuses or compensation.
- Documentation of any retirement plan adoptions, changes or modifications.
- When fringe benefit plans are adopted or cancelled.
- When any new stock or stock plan is issued, adopted or otherwise modified.
- When the corporation makes or approves any substantial purchase of assets or property.
- The approval or recommendation of any loans to officers and/or employees.
- The discussion of any plans to sell, liquidate or reorganize the company.
- Justification for the accumulation of earnings vs. the issuance of dividends.

Then there are the basic entries that would typically precede the major decisions of a meeting:

- The taking of attendance.
- Followed by a determination of quorum or its' waiver.
- Acceptance of the prior meetings' minutes.
- A review of the financial condition or recent business results.
- Ratification of any significant event, action or policy from the prior meeting.

The taking and keeping of detailed and organized minutes can become useful in the event that any later events come into question by creditors', the IRS, any attorney should a lawsuit arise, employees and even officers and shareholders' who either attended or missed the company meeting(s).

The minute book should be organized in chronological order. It should be easy to read and follow. Keep it simple and it will be easier to maintain and not a "burden" which will promote noncompliance.

This list is by no means an all-inclusive list and more or less can be listed in any company's minute book.

HOW DO YOUR FEES COMPARE? ACCESS THE NSA FEE STUDY TO SEE!

The NSA Income & Fees Survey provides detailed fee, operating, benefit, and compensation information for tax preparation and accounting firms, broken out by state, region, and practice size. NSA members get full access to the survey results and analysis for free. Here is a sample of what is included:

- NEW for 2015: Online calculators to find specific fee information in a snap! Click here to access the online calculator
- National fee averages along with average minimum and hourly fees for federal tax returns by form and schedule
- State fee averages for federal tax returns by form and schedule
- National average hourly fees and average fixed monthly fees for additional client services, such as payroll
- Average hourly fees by state for additional client services, such as payroll
- Additional fee averages for IRS representation, expediting returns, extensions, etc.
- Practice management data, including average operating expenses, marketing, technology, and practice mix

Quick Links:  
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