


MAIN STREET **PRACTITIONER**

The Magazine for Tax and Accounting Professionals

A photograph of two people shaking hands in a professional setting. The person on the left is wearing a striped shirt, and the person on the right is wearing a dark suit jacket. In the background, there is a white shelf with several colorful binders (red, green, black).

**Ethics in the Eye
of the Beholder:
What Conduct
is Most Likely to
Result in Discipline
Under Circular 230?**

**Offers in Compromise:
A Seldom Used but
Powerful Tool in Your
Tax Resolution Arsenal**

**Text Message Marketing Best
Practices for the Tax &
Accounting Professional**

PRESIDENT'S MESSAGE



THE ACCOUNTANT'S ROLE DURING THE IRS INTERVIEW AND AUDIT



FROM A TO ZUCKERBERG: NEW TECH & SOCIAL MEDIA FOR TAX ACCOUNTANTS



Main Street Practitioner

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Kathy Hettick, EA, ABA, ATP
NSA President, 2015-2016

A Message from the President, August 2016

Achieving Success Together!

As various state leaders gathered in St. Louis last month for our leadership / legislative conference to share their thoughts and ideas, I was in awe of the talent and expertise of the group. The energy and excitement that is generated when you bring leaders together from across the country is not only productive, but inspiring. It is a great time when we can look at our future leaders and know they will far exceed our successes. NSA, as well as our affiliated state organizations, are in good hands as we move forward and continue to bring in new leaders with fresh ideas, training, and individual talents.

It is hard to believe that almost a year has gone by since I was installed as President of this great organization. With August upon us, we are ramping up for our 71st Annual Meeting where a new slate of officers and leaders will begin their journey and carry NSA forward. It is not too late to sign up and spend a few days in Tampa with us! Check it out on the [website](#). If you can't join us person, be sure and have your voice heard and by using a proxy. This is your organization – be a part of the future.

As I look back on the year, I am amazed at what has been accomplished and the energy and enthusiasm behind it. I am thankful for all that I have learned, for the support and camaraderie I have received, but most especially for the opportunity to serve the members of NSA. This is a challenging, yet essential time for NSA to keep our place of influence and relevance; it has been an honor to be a part of it.

To all our members: thank you for belonging, for keeping NSA relevant, and supporting this great organization and profession! To all the volunteers, past, present, and future: thank you for your dedication and passion in serving NSA and believing in who we are! To our staff: thank you for your patience and perseverance in helping to achieve our mission and vision! To all my mentors and friends: thank you for your wisdom and unconditional support and encouragement! It has been an outstanding year of hard work, determination, and much progress.

In closing, I encourage you to get involved with NSA. I encourage you to reach out to another member and keep our peer network growing. I encourage you to contact any one of our leaders with your input, questions or concerns about our organization. But mostly, I encourage you to continue to provide service to the public with the level of integrity and professionalism that one can expect from an NSA member. We are NSA!

I wish each and every one of you the best,

Kathy Hettick, EA, ABA, ATP
NSA President, 2015-2016

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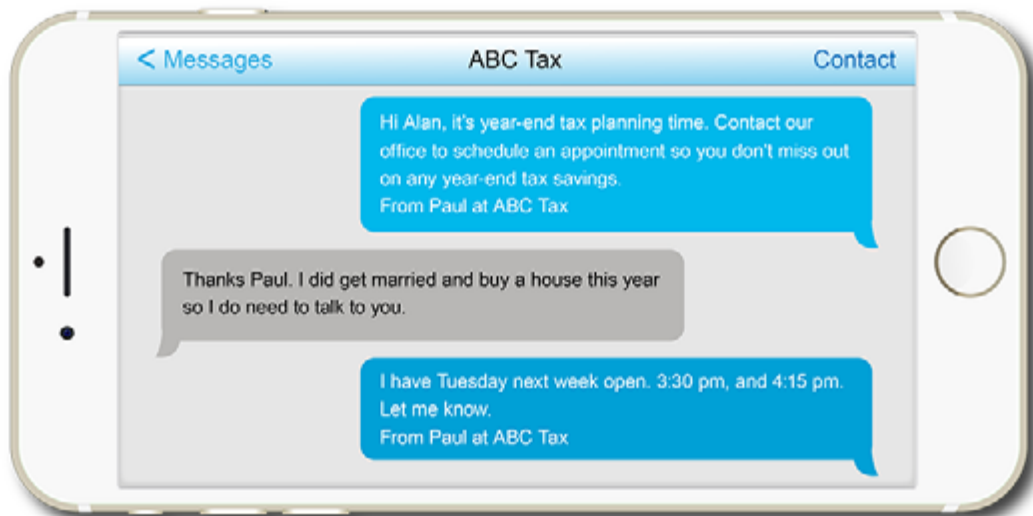
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Text Message Marketing Best Practices for the Tax & Accounting Professional

Majeed Ghadialy

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When used wisely, text message marketing produces extremely high results and offers practitioners a powerful means of communication and relationship development with their tax and accounting clients.

Industry numbers indicate that more than 90% of text messages are read within 15 minutes of receipt! In comparison, an average email campaign generates less than 5% click rate!

Text Message Marketing offers a powerful means of communication and relationship development with your clients. In 2016, Text Message Marketing deserves a serious consideration by every tax and accounting business that wants to stay competitive.

This article provides introductory advice on this powerful technology. Although it contains specific references to tax and accounting professionals, the overall principles can be utilized in any industry.

Best Practices

As with any communication and marketing tool, there are certain do's and don'ts in Text Message Marketing. Following are some of the best practices to keep in mind when evaluating a text message marketing service and establishing your overall text message marketing plan. Figure 1 provides a visual representation of some of these best practices.

Your Messages Must Be Personalized

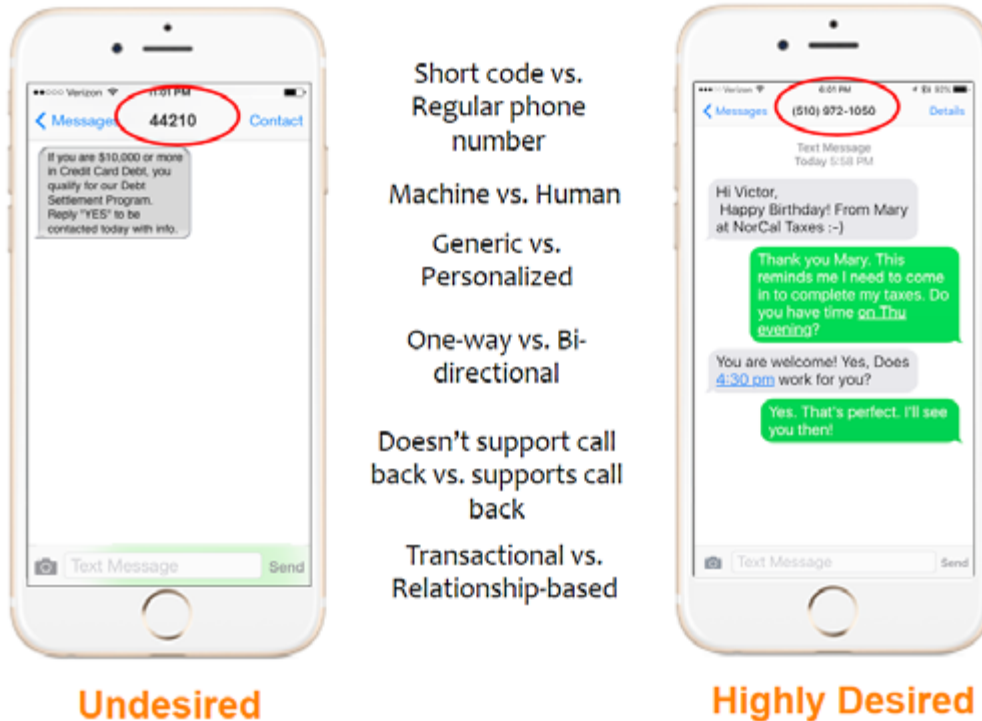
Each of your message must start with the recipient's name. This establishes instant credibility because it tells the recipient that the message is from someone who knows them and not an unwanted spam text! This guarantees that your message will be read almost immediately.

Your Messages Must Be Timely

Some clients come to you to prepare their income tax returns in late January or early February while some like to wait till late March or early April. There is little benefit in reminding late season clients in January; they may not even have their papers together. Similarly, early season clients cannot be reminded in March, as it is too late. Hence, it is important to time your messages carefully. Another great example of this is "birthday greetings". In the income tax and accounting industry, you have birthdates for your clients. This is a unique advantage compared to other industries that enables you to send out birthday greetings and stay in touch with your clients in a thoughtful and friendly manner.

Continued on the following page

Fig 1: Text Marketing Best Practices for the Tax Professionals



Your Messages Must Be Relevant

The content of the messages must be relevant to the recipient. In our experience, sending out a discount offer to non-returning clients produces great results. However, such an offer must not be sent to the entire client list, for obvious reasons, even if doing so may be extremely easy.

The Service Must Offer Automation

The previous three best practices are at the core of an effective marketing and communication strategy even outside of text message marketing. But, as you can imagine, they require a lot of time and energy to execute well, two resources that are in extreme scarcity during the tax season for the busy tax professionals. The only real solution is that the technology platform provides automation.

The Service Must Be Compatible with Your Tax Preparation Software

In any marketing or customer relationship strategy, the client information plays a very important role. The text messaging service must be capable of importing your client information directly from your tax preparation software, thereby minimizing additional time requirements of preparing the data files or worse yet, managing it in two different places!

The Communication Must Be Bi-Directional

Many times, marketing communication tends to be a one-way communication – from the business to the consumer. This cannot be the case with text message marketing. An optimal text message marketing platform must bring in human-to-human bi-directional communication. In response to a marketing text message from a business, customers must be able to text back a question, setup appointments, reschedule existing appointments or get other kinds of customer service.

The Messages Must Come from a Regular Phone Number

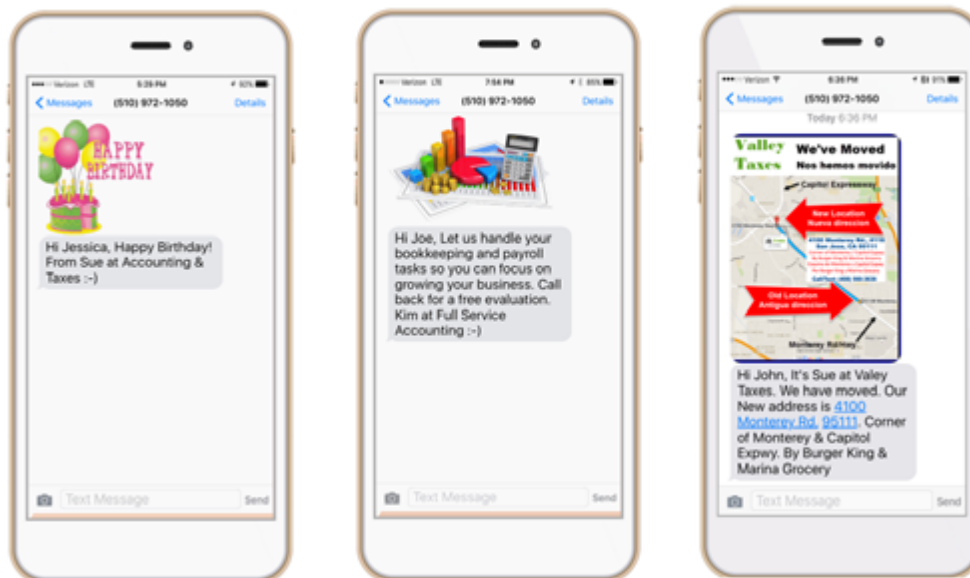
Many a times, companies use a so-called “short code” to send text messages. These are five or six digit numbers unlike a regular phone number. When a customer receives a message from a short code, it is clear to them that it is coming from a computer, not a human. While text messages from a short code may be effective for automated notifications, password recovery etc., they don't do a great job in building client relationship. Hence, your text messages must come from a regular phone number in the same area code where your office is located. Moreover, it must also be possible for the customers to make a return phone call if they need assistance immediately.

Continued on the following page

A Picture Is Worth a...

Picture texting can deliver huge results. A plain text message is generally limited to 160 characters. Although some carriers and phone instruments are able to work around that limitation, it is best to keep the message within that limit to achieve highest level of deliverability to phones across various networks and phone carriers. As you can imagine, it might be very difficult to convey the full message in under 160 characters. This is where pictures can come extremely handy. Recently, a client of ours utilized this to inform their customers about their move after relocating to a different address. They used a picture of their local street map with arrows pointing from the old address to the new address. Their customers thanked them for that text message. Figure 2 provides some examples.

Fig 2: Examples of Effective Picture Texting



Legal Compliance

Texting is an opt-in based communication channel. Telephone Consumer Protection Act (TCPA) governs text message marketing along with automated phone calls and automated fax messages. It imposes several requirements and steep penalties for violations. The most significant requirement is that of “express written consent”. The good news is that getting adequate consent is fairly easy for tax and accounting professionals. It may be a matter of adding a checkbox with appropriate language to the client in-take sheet that the clients are asked to fill in and sign at each visit.

Common Mistakes to Avoid

One of the most common mistakes is over-use. When users complete their first well-designed text message marketing campaign and see the strong results, it becomes a natural tendency to want more. Unfortunately, that makes it a common mistake. With the high level of effectiveness of this communication channel, comes higher level of responsibilities. Consider this as an extremely powerful weapon in your marketing arsenal. Over-use of it, particularly while not following the best practices can cause the recipients to opt out, preventing you from sending future text messages to them.



About the Author:

Majeed Ghadially is founder and CEO of Textellent (www.textellent.com), a unique, patent-pending text message marketing service designed for Tax Professionals. He is a 20+ years veteran of technology and marketing with three patents under his name – two in the US and one in Japan. He also co-owned and operated an Income Tax preparation business for over a decade.

The Accountant's Role During the IRS Interview and Audit



Daniel Gibson

As the taxpayer's qualified representative, an accountant wears many hats in order to serve his or her client's interests during the initial IRS interview and subsequent audit.

The Internal Revenue Service often conducts initial interviews that are sometimes, affectionately, referred to as “the meet and greet conference” prior to an audit. This is where the IRS auditor poses a number of questions to the taxpayer, his or her employees, and the taxpayer representative regarding the business, accounting procedures, banking practices and more. Lasting anywhere from 30 minutes to 2 hours, the initial interview often sets the tone for the forthcoming audit.

Under Section 7521(c) of the IRC, the Internal Revenue Service agent is required to speak only with the taxpayer's qualified representative during the initial meeting, not the taxpayer and his/her employees—if that is the taxpayer's preference. This includes any interviews conducted during the audit. Qualified representatives are designated on a properly executed Form 2848, Power of Attorney and Declaration of Representative.

Prepare the Client

There may be instances, however, where it becomes necessary for the taxpayer to participate in the interview process. On those rare occasions, the taxpayer representative should remind the client to:

1. Answer all questions honestly. Lying to a federal agent has serious consequences.
2. Indicate if you don't know the answer to a question.
3. Be as brief as possible. Do not volunteer additional information beyond what was asked.
4. Ask for a break if needed.
5. Request a clarification if unsure about a question.

Remember, revenue agents are trained in interview techniques and taught to build a rapport with taxpayers by maintaining a friendly and professional demeanor. One interview technique is to leave long pauses in between questions so as to create a taxpayer temptation to fill that void with conversation. This is best avoided.

Question the Questioner

The client representative should ask his or her own questions to help set the tone for the upcoming audit. Here are several questions a representative should ask:

6. Ask to see the agent's identification, including business card and badge. Check the name and identification number. Clarify if the agent is a revenue agent or from the IRS criminal investigation division. If more than 1 agent is assigned and the client representative discovers that 1 or more are from the criminal investigation division, the representative should note their contact information, promptly end the meeting and contact a criminal tax attorney. If the auditor is a revenue agent, ask if he/she has had any contact with the criminal investigation division regarding the case or has spoken to a technical fraud advisor. If the answer is yes, again, exit the meeting promptly and contact criminal tax counsel.

Continued on the following page

7. Ask the agent if any third parties have been or will be contacted. This may provide insight into IRS focus areas. Also, these contacts or future contacts may have a devastating effect on the taxpayer's business. By knowing who has been contacted, the representative can alert the taxpayer who can then inform (and save a potential disruption with) a valued customer, vendor or lending source. The representative may also be able to offer other suitable options for any third parties the IRS wishes to contact.
8. Ask for the contact information for the agent's supervisor. This signals to the agent that if the audit appears compromised, the representative will quickly seek the proper recourse. It is also easier to obtain this information earlier in the process, rather than later when an audit may get contentious. Find out what involvement, if any, the agent's supervisor has had on the case.
9. Ask about the reason for the audit. The IRS process usually follows this pattern: Returns are typically pulled from a pool of returns based on a variety of criteria, and a surveyor identifies issues on the return. These returns then go to an audit group. The revenue agent and his/her supervisor have a planning meeting to discuss audit issues and timing. Any insight a client representative can get on the audit history will help him/her keep the agent focused within the scope of the planned audit.

Discuss the Audit Ground Rules

The client representative should also provide the IRS agent with some direction on how to conduct the audit.

1. Because the representative has power of attorney, he/she should instruct the agent not to speak with anyone at the client location without approval from the taxpayer representative.
2. The representative should instruct the agent not to make copies of documents. The representative will arrange for any copies to be provided. The practitioner should keep a separate file of copies being made as this can shed further light on the audit direction.
3. The auditor should direct any requests for additional documents to the representative via an individual document request (IDR).
4. The representative should request that the agent provide a progress report at the end of each day and identify any developing issues. When the agent is out of the field, he/she should provide a case update every 2 weeks. This can help facilitate the completion of the audit.

IRS audits are not meant to be personal. Revenue agents are only doing their jobs. But the taxpayer representative also has a job, which is to aggressively represent the client. This includes actively working with the agents to ensure that the audit is conducted properly and expeditiously.



About the Author

Daniel Gibson, CPA, MST, EA, is a tax partner at EisnerAmper. He works with individuals and small to medium-sized businesses—across a variety of industries—on accounting, tax and consulting services. Contact Daniel at daniel.gibson@eisneramper.com.



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Ethics in the Eye of the Beholder: What Conduct is Most Likely to Result in Discipline Under Circular 230?

Karen L. Hawkins

Due diligence is a process by which one evaluates the decisions to be made, the risks being taken, and the costs versus the benefits of specific options.

INTRODUCTION

Two of the more common queries put to me by tax professionals around the country when I served as Director of the Office of Professional Responsibility (“OPR”) were: 1) What is most likely to get me in trouble with OPR; and, 2) How much due diligence is enough? For me, these are opposite ends of the same issue: If you are doing the appropriate amount of due diligence in all your dealings with your client and the IRS, you are unlikely to attract attention from OPR. If you are not, that’s when question #2 arises: what’s an “appropriate amount of due diligence. The ultimate answer: “It depends”, should not surprise anyone. Every provision in Circular 230 is dependent upon specific facts and circumstances for its ultimate applicability. Unlike the Internal Revenue Code which creates “rules” (intended to be of the black and white nature, even if not always the case), the statute governing practice before the Treasury Department² originally focused on principles intended to ensure integrity and professionalism in those who represented others before the Department³. Most of the regulations promulgated over the years⁴ have maintained this principles-based focus with a few exceptions beyond this article’s coverage.⁵

Depending on how one counts, there are no fewer than four regulatory paragraphs in Circular 230 that address some level or stage of the due diligence process.⁶ It is a statement in and of itself that over the years, Circular 230 has expanded from a single general due diligence provision⁷ to multiple regulations addressing specific aspects of due diligence as they arise in the tax practice context. As Director, I felt that the only provision that was needed to address 90% of the transgressions under Circular 230 was section 10.22, Diligence as to Accuracy. The remainder of the due diligence sections merely elaborate on the concept in greater detail for those less inclined to want to think too hard on their own about a tax professional’s integrity and responsibilities to client’s and to tax administration.

GENERAL DUE DILIGENCE

So what does section 10.22 say? It admonishes those subject to Circular 230⁸ to exercise “due diligence” throughout the course of their dealings with clients, and with Internal Revenue Service (IRS) personnel. Three types of activities are identified in the regulation: 1) when an individual is “preparing or assisting in the preparation of, approving, and filing tax returns⁹, documents, affidavits and other papers in connection with” tax matters; 2) when an individual is making oral or written representations to Treasury personnel; and, 3) when an individual is making oral or written representations to a client in connection with “any matter administered by the [IRS]”.¹⁰ Subject to the more specific due diligence provisions contained in sections 10.34 and 10.37, section 10.22(b) also articulates a “safe harbor” defense for those who might rely on the work product of others such as an employee, another tax professional, an appraiser etc. The safe harbor is available only if an

Continued on the following page

individual can demonstrate that reasonable care was used in engaging, supervising, training and evaluating the person whose work product is being relied upon. If the safe harbor is successfully invoked, an individual will not be held accountable for any errors resulting from the reliance- due diligence will be “presumed”. The adage of the “buck stops here” can be circumvented by hiring/engaging competent staff/other professionals; by supervising and training employees sufficiently; and by evaluating the work product that comes from others with a reasonable level of scrutiny.

But just what is the “due diligence” expected in 10.22? The term is not specifically defined in the regulations. However, the term permeates the legal and business worlds. Lawyers and business people do their “due diligence” before finalizing a contract, a business deal or before engaging in any major transaction. Due diligence is a process by which one evaluates the decisions to be made, the risks being taken, and the costs versus the benefits of specific options. The purpose in conducting due diligence is to investigate facts, circumstances, and actors sufficiently to enable one’s self, or those being advised, to make informed decisions about actions to be taken. This means any due diligence should be conducted with an eye toward enhancing the amount and quality of information available to the decision-maker, and to ensure that the available information is used methodically in the decision-making deliberations, including an analysis of the cost-benefits and risks associated with alternative choices.

It seems the concept of due diligence entered legal lexicon as a term of art with its inclusion in the Securities Act of 1933. A “safe harbor” defense for broker-dealers accused of making inadequate disclosures to investors with respect to a purchase of securities required the broker-dealers to demonstrate they had exercised “due diligence” in the investigation of a particular security to be sold, and that they made full disclosure to any potential investor of what was uncovered during that investigation. Recognizing the value of such a defense to lawsuits by disgruntled investors, the concept was institutionalized by the securities industry relatively quickly and, as we see in Circular 230, migrated to other types of professional advising activities. In Circular 230, however, the “shield” was turned into a “sword”. The exercise of due diligence became an expectation for tax professionals, first in the general sense described above in section 10.22, and then in more specific contexts to address specific behavioral areas where tax professionals were not getting it right as often as the tax agency thought they should.

In tax practice, due diligence first comes into play (or should) as the initial process in which the professional engages to get to know the client and the nature of the services sought. Thereafter, the professional engages in on-going due diligence to assure an up-to-date “picture” of the client and the facts. Initial due diligence should occur with every new client as the professional learns the facts necessary to perform the services for which s/he is being engaged. Obviously the factual inquiry will be different for the preparation of an income tax return¹¹ than for a merger transaction opinion.¹² Determining the degree and sufficiency of the due diligence “investigation” is part of the professional’s responsibility.¹³ This is the essence of section 10.22(a)(1). Professionals who fail to ask probing, detailed questions about a client’s facts, situation, goals, intentions, etc., is doing him/herself, and the client, a disservice. It is not “prying” to expect a client to respond to inquiries reasonably intended to provide the professional with sufficient information from which to make reasonable recommendations for the client’s informed consideration. It is also good practice, to make a written record of the relevant information identified and (as appropriate) discussed with the client. This is the essence of section 10.22(a)(3). Accepting all representations made by a client without question, will almost never be adequate due diligence

An element of due diligence that is unique to tax professionals appears in section 10.22(a)(2)- ensuring that oral and written representations made to the IRS are correct. It is a concept which results from the tax professional’s dual responsibilities to clients and to the system of tax administration. It is crucial to the process that “truths be told”. Failures to provide correct information to the Agency can result in disastrous results for the tax professional and/or the client.

SITUATIONAL DUE DILIGENCE

On-going due diligence implicates the other more specific provisions in Circular 230.

Tax Returns

Section 10.34(a) admonishes the professional not to give advice or to sign a tax return¹⁴ containing a position which lacks substantial authority, unless the position does have a reasonable basis and the client is advised of his/her penalty exposure¹⁵ unless the position is disclosed on the return. The professional also may not willfully attempt to understate the client’s tax liability, or recklessly disregard rules or regulations when signing or advising on tax return positions.¹⁶ This requires the tax professional to take reasonable steps to ensure relevant factual information has not changed from one year to the next (or maybe from one week to the next), or from one transaction to the next. So, a return preparer might not have to ask to see a child’s social security card every year, but inquiring as to the existence of a foreign bank account on an annual basis is appropriate due diligence. A client who uses “SALY”¹⁷ numbers, with the knowledge of the preparer, for a current year schedule C is causing a problem for him/herself and the tax professional. The professional will be participating in preparing a return that is misleading at best and fraudulent at worst. Due diligence requires the professional to educate the client on

Continued on the following page

the importance of accuracy in the tax return and to “tease out” the correct facts/data to ensure that the professional (and the client) is signing an accurate return. In my opinion, it is never a defense to say the client is solely responsible for the entries on the tax return. If that were the case, both signing and non-signing return preparers would be irrelevant to the tax return preparation process. The tax professional is expected to make further inquiry with respect to information received from the client which appears to be incorrect, inconsistent with other known relevant facts, or incomplete. Nor can the professional ignore the implications of information received or already known.¹⁸ This on-going due diligence is a critical aspect of providing solid professional tax services.

Controversy

Section 10.34(b) of Circular 230 addresses conduct, most likely to arise in tax controversy practice, where documents are being submitted to the IRS. Under section 10.34(b)(1), a document or other paper submitted to the IRS¹⁹, whether by the practitioner or taxpayer on advice of the practitioner, may not contain any positions which are frivolous. This very low bar seems currently out of synch with many other provisions both in the Circular and in the Internal Revenue Code. Nevertheless, during my tenure at least a handful of practitioners submitted written arguments and work papers to the IRS containing purported support and arguments for what were clearly scams and shams. Frivolous has sometimes been described as “a position that cannot be defended with a straight face,” but the evaluation of what constitutes a “frivolous position” is an objective one, not a subjective one. What would the general community of tax professionals think about the position.

Section 10.34(b)(2) addresses the act of making a submission. Practitioners may not advise a client to submit documents or other papers to the IRS when the submission is frivolous; when the submission is intended to delay or impede IRS actions; or when the submission contains or omits information suggesting an intentional disregard for the law, unless additional documentary evidence is submitted supporting a good-faith challenge to a statute or regulation.

Submissions of post-dated documents to support a transaction; omitting asset from a collection form; providing fabricated receipts to support non-existent income or expense items; submitting an offer in compromise proposal for the sole purpose of stopping a bank levy, are all examples of potential violations under section 10.34(b)(2).

If a practitioner advises a client with respect to a position taken on a tax return or prepares/signs the return containing the position and the practitioner knows (or should know) that the client could be subject to a penalty, the practitioner must advise the client accordingly and provide information on how the client may avoid the penalty through adequate disclosure on the return. This admonition applies equally to the submission of any document to the IRS. It was my position that the practitioner need not “force” the client to make the requisite disclosure. However, unless the return or submission meets the standards articulated in 10.34(a) and (b), the practitioner may not prepare/sign the return or make the submission without professional jeopardy.

Competence

While not technically a “due diligence” provision, section 10.35 of Circular 230, newly added to the regulations in 2014, requires a practitioner to be competent to practice before the IRS. Competence is a facts and circumstances test; but as a foundational matter, it requires the requisite knowledge, skill, preparation and thoroughness necessary for the matter for which the practitioner has been engaged. While a practitioner may not be competent in all things tax, the regulation expects the practitioner to be self-aware enough to know when to research or study a subject before giving advice or interacting with IRS personnel. It is also incumbent upon the practitioner to know when s/he is not competent, and cannot become competent in sufficient time, to provide the requested services. In these instances, the practitioner can meet the regulatory expectations by consulting or hiring someone who is competent. In this regard, section 10.35 interplays with section 10.22(b): when relying on someone else’s work product, a practitioner will only be deemed to have exercised adequate general due diligence if the practitioner “used reasonable care in engaging, supervising, training and evaluating the person, taking proper account of the nature of the relationship between the practitioner and the person” being relied upon.

Written Tax Advice

Section 10.37 of Circular 230 was substantially rewritten in 2014 in conjunction with the removal of former section 10.35 dealing with Covered Opinions. While purporting to address only written advice, the provisions in that section serve as a helpful synopsis for the due diligence required during all phases of tax practice: to ensure that all relevant and available information is obtained and used appropriately in the decision-making deliberations by both advisor and client. The section tells us that it’s all about behaving “reasonably”- again, an objective, not subjective exercise, with the final step consisting of applying the appropriate legal principles and concepts to all known relevant facts and all reasonably assumed future facts. The facts must fit the law- recrafting facts to fit the law after-the-fact will never sustain a challenge and is not adequate due diligence. I have seen this kind of “advising” in tax shelters when a “cookie-cutter” scheme is sold wholesale to clients without the facts to support the tax treatment being espoused in the opinion. This is tantamount to selling a recipe without knowing whether the cook has the proper ingredients.

Continued on the following page

Relying on someone who is known to be unreliable, or incompetent, is not reasonable conduct, nor is accepting information or an opinion from someone who has an unresolved conflict of interest in the matter. If written advice is being provided to someone for use in marketing a tax strategy, the advising practitioner will be subject to a more thorough due diligence assessment by OPR if the strategy is found to be a tax shelter.

Relying on someone who is known to be unreliable, or incompetent, is not reasonable conduct, nor is accepting information or an opinion from someone who has an unresolved conflict of interest in the matter. If written advice is being provided to someone for use in marketing a tax strategy, the advising practitioner will be subject to a more thorough due diligence assessment by OPR if the strategy is found to be a tax shelter.

DEFENDING YOURSELF BEFORE OPR²⁰

Early Stages

A practitioner always hopes to steer clear of an OPR investigation during his/her career, of course. However, OPR is a “receptacle” for third party complaints about practitioner behavior. In other words, OPR does not generate its own cases; it receives referrals and complaints from IRS personnel, other governmental agencies, other practitioners, and the general public. Therefore as an initial matter, a referral to OPR is going to be dependent on the “eye of the beholder” making the allegations of misconduct.

Once a complaint is received, OPR is required to take, at least a cursory look to determine on the first hand, whether it has jurisdiction over the person and the behavior complained about. During my tenure as Director, nearly 65% of the cases received were disposed of at this intake phase²¹. In these instances, no contact between the OPR staff and the practitioner occurs, and the record of the referral may not be used as a cumulative event if a subsequent complaint/referral is received.²² If OPR determines that it has jurisdiction and the behavior is subject to Circular 230, two things occur. First, the practitioner’s tax compliance record is checked (i.e., personal, controlled entities, employment). If nonfiling is discovered, or there are unpaid tax liabilities which may suggest willful evasion of payment, those charges will be added to whatever else has been alleged about the practitioner’s conduct. Second, consideration will be given to the nature of the transgressions and the appropriateness of alternatives to discipline explored. In this instance, the practitioner will receive a preliminary Notice of Allegation from OPR which recites the allegations of misconduct and invites the practitioner to respond in writing.



TIP: THIS IS AN OPPORTUNITY A PRACTITIONER SHOULD NOT PASS UP

This represents your first opportunity to explain yourself, express remorse where appropriate, demonstrate you have learned from your mistake and convince OPR that no, or alternate discipline, is a better use of its resources in your case.



TIP: Too many practitioners opt to self-represent at their own peril. Having an objective representative to assist with your analysis of the situation and to present your case to OPR is an option every contacted practitioner should consider.

Alternatives to Discipline

In order to make the most efficient use of OPR’s resources several alternatives have been developed for use in appropriate cases; for instance, where the facts and circumstances are in dispute and any litigation would result in “he said, she said” testimony; where the conduct alleged appears to be a onetime “hiccup” acknowledged by a chagrined practitioner with an otherwise unblemished record; or, where the practitioner has corrected the behavior. This happens most often where the practitioner’s own tax compliance has come to OPR’s attention²³. The discipline alternatives are designed to serve as “wake-up” calls to give practitioners an opportunity to get back into behavioral compliance without consequence to their livelihoods. They include:

- Soft Letter regarding tax filing or payment obligations;
- Soft letter regarding bad behavior in violation of one or more of the regulations
- Private reprimand
- Deferred disciplinary agreement.

The soft letters call the practitioner’s attention to the violating behavior and admonish the practitioner to become better acquainted with his/her obligations under Circular 230. Depending upon the facts, the soft letter may provide a deadline (e.g.,

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for filing delinquent tax returns) or may just warn that a subsequent referral could result in disciplinary action being taken.

The private reprimand is issued at the discretion of the Director, OPR, and is the private equivalent of a censure (discussed below). It almost always advises that a future transgression could result in harsher disciplinary action being taken.

A deferred disciplinary agreement (DDA) is used most often in cases of tax noncompliance where the individual involved is not a “regular” practitioner before the IRS. The majority of DDAs are executed with attorneys whose practices touch on tax (family law, bankruptcy etc.) but who rarely represent a client before the IRS. Public discipline of these individuals can often result in a loss of state bar license, perceived by many to be a harsh result for tax non-compliance by someone who interacts very little with tax administration. The DDA contains negotiated terms for the future conduct of the practitioner with default provisions identifying a summary process for imposing public discipline. Unless the DDA is breached, the fact of the agreement is not published in the Internal Revenue Bulletin (see below for more on this).

Some of the staff in OPR negotiated DDAs which were “hybrids”, that is, they contained provisions for an immediate censure with provisions for future behavior and consequences for any default. I personally did not favor this approach, so very few such hybrid DDAs are in existence.

There is no current indication of how new management is addressing any of these alternative disciplinary approaches.



TIP: If you receive a notice of allegation with respect to your own tax compliance or specific behavior that you admit occurred, the most efficient approach is to acknowledge the transgression and pledge to correct the conduct, i.e., commit to filing delinquent returns in a reasonable period of time.

Investigation and Conference

If a practitioner has either failed to respond to OPR’s communications²⁴ or the case is not one which can be closed early or with an alternative, OPR will commence its investigation and documentation in anticipation of a disciplinary hearing. During this phase, OPR will contact the referral source, as needed, for additional documentation and will also conduct its own search of available databases to see what other information is available on the practitioner. This research can result in discovering tax noncompliance with respect to the individual, a controlled entity, or employment taxes. It can also uncover the loss of a state license (attorney or CPA) which will result in an expedited procedure for indefinite suspension. Internal databases will also inform OPR as to whether the practitioner has ever had preparer penalties assessed, and at what level (i.e., negligence, willful).

Once the OPR staff has identified all possible violations, an Allegation Letter will be sent to the practitioner. The letter should contain a detailed and precise description of the alleged violating conduct, citations to the specific Circular 230 provisions violated, and notice of the opportunity to request a conference with OPR staff. The letter will sometimes contain requests for additional information if there are some missing facts which OPR believes are relevant to its final determination.



TIP: DO NOT IGNORE AN ALLEGATION LETTER. Request a conference. And, if you haven’t already done so, consider hiring someone to represent you.

Under the regulations, a practitioner has a right to a one conference with OPR. Don’t pass this up. The conference can be telephonic or in person, but, if in person, the conference will be held in Washington, DC where OPR resides. The practitioner is entitled to representation during this process. There will be at least two OPR staff in attendance at any conference: at least one lawyer, with the other being a paralegal, manager, or, on rare occasion, the Director. The person with whom you have been corresponding will take the lead in opening the conference with some ground rules but this is really the practitioner’s conference and should be conducted accordingly. The practitioner should come prepared with any supporting documentation to refute the allegations, or raise litigation hazards. If the practitioner realizes that violations have occurred, it is the wiser approach to acknowledge them and try to demonstrate mitigation, remorse, rehabilitation etc., to dissuade OPR from expending further resources pursuing the case. This is the time to be pragmatic and realistic. If the violations can be seen as causing harm to taxpayers or the system, it is the practitioner who must propose a level of discipline commensurate with the violations committed. It is unrealistic to think that a private reprimand or even a censure is appropriate in the context of an Allegation Letter.

Public Discipline

One misconception practitioners have is that OPR can “discipline” them at will. This is simply not the case. OPR has

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authority to receive complaints and referral, investigate alleged violations and negotiate a resolution with the practitioner. During that process, practitioners must be notified of the investigation and the allegations made against them. There is at least one opportunity for a conference to tell your side of the story and numerous opportunities for settlement.

OPR has four options available when pursuing discipline: censure, suspension; disbarment; monetary penalty. All disciplinary events are published in the Internal Revenue Bulletin (IRB) on a regular basis²⁵. The information published in the IRB includes: practitioner name; state where the practitioners is located; licensure status; provisions of Cir 230 violated and type and duration of the discipline. The published discipline is republished by some of the tax trade publications. In addition, the various states and the United States Tax Court review the OPR discipline events to identify individuals who may be subject to further inquiry and discipline in those fora, i.e., state boards of accountancy; state bars; Tax Court list of admitted litigators.

A censure is a one-time public reprimand. It carries with it no practice consequences, although its publication in the IRB may cause embarrassment with colleagues and clients. It is not considered “discipline” for most state licensing issues. OPR can require certain conditions for future conduct before agreeing to a censure.

A suspension may be for a period of one to fifty-nine months. Obviously, OPR is not going to waste resources on short-term suspensions. During my tenure, there were a handful of suspensions in the 6-9 month timeframe; most were in excess of one year. During the period of suspension, a practitioner may not represent, in any context, any other person before the IRS. This includes both direct and indirect representation of a taxpayer during a tax controversy, providing business appraisals, and the rendering of written tax advice. OPR requires suspended practitioners to petition for reinstatement (either near the end of the suspension period or at the end of five years whichever occurs first), which will be granted so long as there have been no intervening violations. Conditions for reinstatement may be imposed by OPR.

A disbarment is for a period of five years. During the five-year period and unless and until authorized to do so, a practitioner may not engage in any representation activities as described above with respect to suspensions. A petition for reinstatement must be submitted (near the end of the five year period) and OPR will grant reinstatement, with or without conditions, only if OPR is satisfied that the practitioner is not likely to engage in conduct contrary to Circular 230 and that granting reinstatement would not be contrary to the public interest.

Mounting a Defense

Practitioners are entitled to receive all evidence in OPR’s possession which is relevant to the allegations recited in the allegation letter. A request for that material does not require a Freedom of Information Act request (FOIA). In fact, making a FOIA request will delay the practitioner’s access to the relevant material. OPR has authority under IRC section 6103 to provide such information upon request so long as the practitioner, and any representative, execute an acknowledgment of their prohibition on disclosure under which both civil and criminal penalties may be imposed for any violation. OPR has provided guidance on making these “6103 requests” and a sample letter on its webpage.²⁶



TIP: Always send a 6103 letter as soon as first contact has been made by OPR. Waiting until the Allegation Letter arrives is too late.

DEFENDING AGAINST A COMPLAINT

General Legal Services

If the practitioner is unsuccessful in resolving the issues on a basis satisfactory to OPR, OPR staff will draft a formal complaint reciting all available causes of action and the facts which support each element of an offense under one or more of the regulations. The complaint will also contain OPR’s recommendation for a level of discipline which it believes the conduct requires. The draft, along with all factual evidence and a legal analysis is sent to Chief Counsel, General Legal Services branch (GLS). GLS litigates the disciplinary cases and OPR becomes the “client”. GLS and OPR work closely together in finalizing the complaint, in conducting any discovery, and in preparation for the administrative hearing. As a matter of policy, GLS will send a letter to the practitioner offering one final opportunity to propose a settlement of the case.



TIP: Do not pass on this opportunity to resolve the case through GLS but do not expect a better result than the last counterproposal from OPR .

A very important right arises for the practitioner once the complaint is filed. Because OPR disciplinary cases are no longer

available to the public, a practitioner will not be able to defend unless s/he can access the case precedent which currently is a “secret” body of law. In order to do this, the practitioner must make a request, using the 6103 letter as a template, requesting the entire body of ALJ and TAA decisions, unredacted. OPR’s current policy is to provide a CD-Rom containing all decisions dating back to at least 2007 to the practitioner and any authorized representative provided each executes an acknowledgement that the CD contents are protected under IRC 6103 and may only be used in the context of defending in the disciplinary case. The letter also requires acknowledgement that any violation carries with it civil and criminal penalties.



TIP: Request the CD at the earliest possible moment to ensure access to potentially relevant case law with which to defend yourself.

If informal resolution cannot be reached with GLS, the complaint will be filed with an Administrative Law Judge (ALJ) and served on the practitioner. This is the “institution of a proceeding”. Read the complaint carefully to ensure the facts stated are accurate and that there are no allegations made about which you were not previously advised and/or to which you have not been granted an opportunity to respond. Once served, the practitioner’s answer must be filed within 30 days. **FAILURE TO RESPOND WITHIN THE 30-DAY TIMEFRAME WILL RESULT IN A DEFAULT JUDGMENT** against practitioner²⁷.

Once the answer is filed, the case is “at issue” and, in consultation with the parties and or their counsel, the ALJ will issue a scheduling order reflecting timeframes for discovery, pretrial briefing and a hearing date. It is important to realize that these proceedings are serious. And failing to treat them accordingly will bring disastrous results.

The Hearing

The administrative hearing will most often be held in the closest city that is convenient for the practitioner and which has a federal courthouse. There will be a court reporter recording the entire proceeding. Witnesses may be called only if previously identified in the pretrial brief. Documentary evidence will be admitted only if it has previously been provided to the opposing party. All testimony is under oath. The rules of evidence are followed although in somewhat relaxed fashion.

At the hearings, GLS will call IRS personnel who are either familiar with the facts of the case or who have expertise in a particular subject matter that needs to be explained to the court (e.g., reading IRS transcripts). One witness who always appears is a representative of OPR²⁸. The OPR representative is there to explain OPR’s position and the basis therefore as well as to explain why a specific level of discipline has been proposed. All witnesses are subject to cross examination.

At the termination of the hearing, the ALJ will set a briefing schedule. Most often the briefing is simultaneous (both parties submitting their opening and responsive briefs on the same dates), but the ALJ has discretion to order consecutive briefs with GLS making the first submission, followed by a responsive brief from the practitioner. The briefs are an opportunity to ask the ALJ to make findings of fact (as supported by the record) and reach conclusions of law (as appropriately applied based on the facts found). GLS must prove by clear and convincing evidence that practitioner’s violations were willful, reckless or grossly incompetent²⁹.

Once the briefing has concluded, the ALJ takes the matter under submission. The expectation is that the ALJ will issue a Preliminary Decision and Order within 180 days after briefing has concluded. In nearly all instances this timeframe is maintained. The ALJ serves both parties with his/her decision and order. In reaching a preliminary decision, the ALJ has three options: sustain OPR as to both the allegations of misconduct and the level of discipline recommended; reject OPR’s case against practitioner in its entirety; adjust the allegations found to conform to the facts found and modify the discipline accordingly³⁰.

Appeal

If either party does not agree with the ALJ’s decision, an appeal may be filed with the Treasury Appellate Authority (TAA) within 30 days of being served. An appeal requires a Notice of appeal and a brief that states precisely the exceptions being taken to the ALJ’s findings of fact or legal conclusions, along with supporting reasons for the exceptions. A failure to enumerate exceptions and a basis therefore, will be fatal to any appeal. The non-appealing party has 30 days to file a Response. No further hearing is held before the TAA. After briefing has concluded, the TAA takes the matter under consideration and, in a reasonable period of time (the regulations say should be within 180 days, but it is not mandatory), the TAA will issue the Final Agency Decision (FAD) and serve both parties. The TAA may adopt entirely the findings of fact and conclusions of law by the ALJ, or may modify any aspect of the opinion which is contradicted by facts in evidence or where the ALJ has misconstrued the law. The TAA may also remand the case for further proceedings before the ALJ but this approach is very rare. Any discipline imposed in the FAD is effective immediately and the fact of the discipline will be published in a future IRB.

The FAD is the final word from Treasury on the case. OPR is obliged to follow whatever has been determined.

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The practitioner, however, may take a form of appeal by filing a complaint in federal district court (in practitioner's domicile) which alleges the agency acted in an arbitrary or capricious fashion in bringing the case and/or imposing the discipline; acted contrary to law; or abused its discretion. During my tenure, a single complaint of this kind was filed against OPR. Ultimately, OPR (the ALJ, GLS, and the TAA) was found not to have abused its discretion in any manner and the practitioner's discipline was sustained³¹.

CONCLUSION

As Director of the Office of Professional Responsibility, I observed myriad varieties of due diligence failures. Most could be distilled down to either a lack of communication with and/or a failure to manage the client; sloppy or lazy thinking; or, incompetence (not knowing what you don't know). The standard for determining a due diligence failure is essentially what another competent tax professional would have done, thought, or said in similar circumstances. This is a national standard and is based on the objectively reasonable tax professional, not the subjective beliefs of the individual professional.

So, whether it's in connection with the preparation of a tax return or the crafting of a multi-national tax transaction, due diligence requires reasonable fact gathering; use of assumptions only if reasonable; further inquiry when facts are incomplete, inconsistent with other facts, or contradictory to other information known to the professional; no willful blindness; and reasoned application of all relevant law to all the relevant facts. Only then will the decision-making deliberations result in a defensible and sustainable choice.

When a practitioner finds him/herself the target of an OPR investigation for alleged violations under Circular 230, the watchwords should be: prompt response; complete cooperation; realistic evaluation of the circumstances; acceptance of responsibility (when appropriate); pursuit of all rights afforded by the process; don't represent yourself.

Click [here](#) to download the full document.

[Download complete footnotes.](#)

Appendix A: [Hypotheticals](#)

Appendix B: [Relevant Circular 230 Provisions](#)

Appendix C: [Rights and Responsibilities of Practitioners in Circular 230 Disciplinary Cases](#)

Appendix D: [6103 Requests-Procedure and Sample Letter](#)



About the Author

Karen L. Hawkins was the Director of the IRS Office of Professional Responsibility. Prior to taking this 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.

Karen Hawkins will be presenting *Ethics in the Eye of the Beholder: What Conduct is Most Likely to Result in Discipline under Circular 230?* as a seminar at the National Society of Accountants Annual Meeting in Tampa on August 20th. Later that afternoon she will be facilitating a roundtable discussion on how to put this knowledge into practice. For information, visit this [page](#).



Audits of Section 401(k) Plans - Should Your Firm Make the Commitment?

Robert L. Rojas, CPA, MS Taxation

Employee benefit plans are unique and complicated in so far as the tax and maze of rules and regulations that pertain to their operation and qualified status.

The IRS and Department of Labor Express New Concerns About Audits of Section 401(k) Plans

Introduction

You're a tax and accounting professional and you may have helped your client decide whether to have a Section 401(k) plan, a type of individual account plan. ((See Instructions to Form 5500 for 2015, page 44.))

You've worked through the details of costs and contribution limits and a maze of tax rules. You may well be the one to notify the client of new tax pronouncements and developments that affect the plan.

But helping the client decide whether to have a Section 401(k) plan and notifying the client of major pronouncements affecting 401(k) plans is quite different from the issue of the client's decisions concerning management of the plan and your decision as to whether your firm is the one to audit the plan.

Our focus in this article is more on the differing responsibilities after the plan is in place, with an emphasis on the accounting firm's decision as to whether to audit such plans. We hope to leave the accounting firm's management with enough perspective to make an informed decision on the matter.

We also hope to provide a perspective to those plan administrators charged with hiring the auditing firm.

We try to provide some perspective but would also say up front that the complexities of such audits and their uniqueness are such that there is a significant threshold of commitment involved in doing such audits. That's not to say that smaller firms can't do audits of Section 401(k) plans but rather to say the topic is so unique and complex that the firm, regardless of its size, needs to plan on a rather significant threshold of commitment to this specialized particular environment.

The tax and audit and regulatory rules governing the Section 401(k) plan are subject to change. There is the on-going process of new regulatory issues and tax rules. The decision to work in the area is an on-going commitment to study.

The nature of the world we live in is such that even once the plan is in place and "perfect," it is still necessary to obtain and

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review the plan document annually, and to perform a review as an integral part of planning. ((See this explanation of Rev. Proc. 2007-44, https://www.irs.gov/pub/irs-tege/2013cpe_plan_qual_rev_proc_77_44.pdf.)

The IRS publishes a Cumulative List of Changes in Plan Qualification Requirements near each year end.

The complexities are such that the IRS has an Employee Plans Compliance Resolution System (EPCRS) and web site devoted to the topic of fixing plan mistakes. ((<https://www.irs.gov/retirement-plans/correcting-plan-errors>; Rev. Proc. 2013-12, 2013-4 I.R.B. 313; Rev. Proc. 2015-27 modifying Rev. Proc. 2013-12, and Rev. Proc. 2015-28 modifying Rev. Proc. 2013-12.))

Fixing mistakes comes with special forms and user fees. ((See IRS Forms 8950 and 8951.))

The Basic Tax and Auditing Environment

The 401(k) assets are technically held by a trust, not just a “plan.” One of the audit steps of the IRS in examining a Section 401(k) or other employee benefit plan is to confirm plan assets are held in the name of the trust. ((Internal Revenue Manual Part 4.71.1.4, Examination Objectives and Development of Issues, No. 12, Review of the Trust.))

The terms are often used interchangeably but “plan” and “trust” distinctions sometimes arise. The Internal Revenue Manual suggests that in dealing with representatives of the taxpayer, a power of attorney form may be needed for the plan and a separate power of attorney form may be needed for the trust. ((Internal Revenue Manual Part 4.71.1.9, “Power of Attorney (Form 2848) and Tax Information Authorization (Form 8821).))

The employer’s contributions to the trust for the benefit of the participant are generally not subject to income tax for the employee, hence the deferral nature of the Section 401(k) vehicle.

The 401(k) is a separate account type plan that generally lets tax-deferred earnings accumulate to an even larger amount until the time of distributions from the trust. It is possible for a Section 401(k) trust to allow Roth type arrangements whereby there is no deferral up front but the account accumulates tax-free and distributions are tax-free.

There is the FICA tax on earnings going into the plan, whether a traditional 401(k) arrangement or the Roth account approach. FICA taxes do not apply to distributions out of the plan or to employer contributions to the plan, though they do apply to contributions for the employee whether the contribution is deferred for income tax purposes or the contribution is subject to immediate income tax under the Roth alternative (if the plan permits the Roth approach).

While the plan is exempt, there are nevertheless potential tax issues, both unrelated business income tax possibilities and sundry excise taxes. ((See IRS Form 990-T, Exempt Organization Business Income Tax Return and its instructions, and Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, and its instructions.))

Many plans will get an opinion on their exempt status though it isn’t per se required.

There are myriad tax rules that the auditor must understand in auditing the plan, such as limits on employee compensation that can be taken into account when computing contributions, and vesting rules for the employee’s account, as well as the rules distinguishing between deferrals out of the employee’s earnings and contributions by the employer. The employee’s contributions must always be 100% vested but that is not true as to the employer’s contributions depending on the terms of the plan.

There are overall limits on contributions that apply to plans established by an employer and any related employer. Basically, the overall limit on additions to the employee’s account looks at the total of elective deferrals, employer matching contributions, employer nonelective contributions, and allocations of forfeitures. The annual additions to the participant’s account can’t exceed the lesser of 100% of the participant’s compensation or \$53,000 (\$59,000 with catch-up contributions for certain older employees). These are the limits for 2015 and 2016.

Audits of employee benefit plans and the accounting/tax rules governing such plans are quite unique. As an indication of the uniqueness of such audit engagements, consider this statement out of the Internal Revenue Manual that “Fair market value must be used to value depreciable assets.” ((Internal Revenue Manual, 4.71.1.4, No. 12.))

That’s not to say that there aren’t the familiar issues of internal control, such as having two disinterested parties approve checks, but the auditor has to be committed to studying a body of rules that involve interplay and special considerations involving the myriad parties involved. ((See the IRS site, “Internal Controls Are Essential in Retirement Plans,” <https://www.irs.gov/retirement-plans/internal-controls-are-essential-in-retirement-plans>.)

The Employer’s /Plan Administrator’s Perspective

There is, of course, the issue of the auditor’s fee, which is judged by the plan administrator and/or the employer. The employer will sometimes pay the fee out of general funds and will sometimes pay the fee out of plan assets.

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The audit itself is one of the complexities and costs that should also go into the front-end weighing of factors affecting a decision to have such a plan. The auditor, of course, has to balance the need for doing a quality audit with the fee, the costs and time involved, and the problems associated with any major oversights in the audit process.

For the employer, the issues here are not only ones of contractual commitments and going forward in helping the workers but the area is also fraught with penalties as well as cost issues.

For example, failure to make a timely deposit can not only trigger corrective measures but penalties. Failure to file the Form 5500 can result in penalties from both the IRS and the Department of Labor. Plan loans to disqualified persons can trigger penalties (excise tax). ((See Form 5330, Return of Excise Taxes Related to Employee Benefit Plans. <https://www.dol.gov/ebsa/pdf/2015-5500inst.pdf>))

It is possible for the plan administrator to incur penalties in excess of \$50,000 in connection with Section 401(k) audit failures.

The 401(k) plan, to be qualified, needs not only be pursuant to a properly drafted plan but also has to operate in accordance with the plan and the strict regulatory environment.

The plan has to contain the appropriate language for qualification within the various choices available to employers adopting the plan and employees making choices within the limits of the drafted plan.

While a determination letter from the IRS on qualification isn't mandatory, many employers choose to seek a formal letter from the IRS that the plan is qualified.

But there is also the operational aspect of the plan. Either category, drafting or operations, can create major problems. ((For a brief overview of the complexities, see IRS Pub. 4222, "401(k) Plans for Small Businesses," <https://www.irs.gov/pub/irs-pdf/p4222.pdf>.)

One of these operational aspects is described as follows by the IRS:

"In order to ensure that the plan satisfies these requirements, the employer must perform annual tests, known as the Actual Deferral Percentage (ADP) and Actual Contribution Percentage (ACP) tests, to verify that deferred wages and employer matching contributions do not discriminate in favor of highly compensated employees." ((("401(k) Plan Overview," IRS web site, Topics Retirement Plans)) There are safe harbor Section 401(k) plans with requirements such that the nondiscrimination tests applicable to traditional 401(k) plans do not apply. ((See Section 401(k)(12).)) There are also Simple 401(k) plans, available in certain limited circumstances, which do not have to apply these nondiscrimination tests.

Some plans also offer loans. Whether to offer loans out of the plan is a decision made when the employer drafts or amends the plan. The terms of each plan vary, and it is the auditor's job in opining on the financials to understand the details and particulars of this plan, including its loan provisions.

The employer's responsibilities can sometimes be simplified by maximizing the use of outside help, often a financial institution. And while there are rules that mitigate the level of work when financial institutions are involved, the auditor still has to look over everyone's shoulder so to speak; i.e., even when responsibilities are proliferated among other specialists who work with the administrator or specialize in investments there is still quite a lot of audit work involved. The auditor's responsibilities involve all these parties in some aspects of completing the audit.

The employer's fiduciary responsibilities should include confirming whether an attorney, accountant, or investment advisor has an up-to-date license and whether there are complaints pending against the service provider as part of their overall due diligence. ((www.dol.gov/ebsa/newsroom/fs052505.html.)

The DOL goes so far as to recommend that the administrator keep a written record of the process they followed in choosing service providers and the reasons for the selection of a particular provider. ((("Getting It Right, Know Your Fiduciary Responsibilities," www.dol.gov/ebsa/newsroom/fs052505.html.)

The Regulatory Environment

The accountant engaged in auditing the Sec. 401(k) plan has to be well versed in not only generally accepted accounting and auditing standards and the tax rules that play an important role, but also the Department of Labor regulations and policies governing such work.

An IRS web site titled "401(k) Resource Guide - Plan Sponsors - What if You are Audited?" describes the differing jurisdictions of these federal agencies as follows:

"Authority and responsibilities of the Internal Revenue Service (IRS) and the Department of Labor (DOL). The Employment

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Retirement Security Act of 1974 (ERISA), as amended, provides the legal basis for the IRS Employee Plans (EP) compliance program. The jurisdiction over the rules for 401(k) plans is divided between the IRS and the DOL:

- * The IRS has primary jurisdiction over the qualified status of 401(k) plans, which includes examining plans and processing requests for determination letters.

- * The DOL has primary jurisdiction over the fiduciary standards, reporting and disclosure requirements and other rules that do not affect the qualified status of 401(k) plans.”

The DOL is keenly interested in and even critical of the auditing process it sees with Section 401(k) plans and other employee benefit plans.

The DOL is so intent on the importance of the auditor in protecting employees and identifying problems that it produced a booklet, “Selecting an Auditor for Your Employee Benefit Plan.” (<https://www.dol.gov/ebsa/publications/selectinganauditor.html>.) The publication goes so far as to warn:

“Because an incomplete, inadequate, or untimely audit report may result in penalties being assessed against you as the plan’s administrator, selection of an experienced and reliable auditor is very important...”

The more training and experience that an auditor has with employee benefit plan audits, the more familiar the auditor will be with benefit plan practices and operations, as well as the special auditing standards and rules that apply to such plans.”

The Audit Required When Filing the Plan’s Form 5500

In the audit of a Section 401(k) plan, the accounting firm will wrestle with the law, regulations and rulings governing the plan itself, as well as the intricacies and expertise it sometimes takes in dealing with the plan’s third party administrator and investment manager.

The overall current context is also one in which the governmental watchdogs have expressed significant dissatisfaction with the quality of audits of Section 401(k) plans. The environment is one of closer scrutiny than ever.

Over and above the complexities of tax rules governing the plans, there is the issue of governmental oversight, especially the Labor Department’s scrutiny of the accountant’s audit required of the plan. Technically, under ERISA, the auditor is engaged “on behalf of plan participants.” ((ERISA Section 103(a)(3)(A).))

A Section 401(k) plan has to file an annual Form 5500. The instructions to the 2015 Form 5500 are 82 pages, whereas if the plan is that of a corporate employer, the instructions to the employer’s income tax return, Form 1120, are only 26 pages. This is some indication of the complexities, not to mention governmental zeal to monitor the care that goes into managing the employees’ benefit plan.

Large plans have the further complication of needing to have a certified audit of the plan attached to one of the tax schedules within the return. The instructions say that if the required accountant’s report is not attached to Form 5500, “it is subject to rejection as incomplete and penalties may be assessed.” ((Instructions to Form 5500, 2015, p. 37.))

“Large plans” that must be audited are generally defined as those having a hundred participants or more at the beginning of the plan year, but there are exceptions. There is also an “80-120 Participant Rule” which says if the plan has between 80 and 120 eligible participants at the beginning of the plan year, you can still file as a small plan if you so filed in the prior year. In this circumstance, no audit is required despite having a hundred or more participants. A key phrase is “eligible participants” which includes not only those in the plan but those who have met the eligibility requirements but have not yet opted into the plan. It also includes terminated participants that still have plan balances. Failing to accurately apply these rules can result in significant penalties from the Department of Labor. ((See also Instructions to Form 5500, Section 4.))

The main financial portion of the DOL Form 5500 is Schedule I for a small plan, and Schedule H for large plans. ((<https://www.dol.gov/ebsa/pdf/2015-5500-Schedule-H.pdf>.)

Common errors encountered in auditing the plan include the following:

1. not updating the plan;
2. not expressly following the myriad particulars of the plan;
3. failure to apply the plan’s definition of compensation correctly;
4. employer matching contributions weren’t made to all appropriate employees;

5. the plan failed the nondiscrimination tests;
6. eligible employees were inadvertently excluded from the plan;
7. elective deferrals weren't limited to the right amounts and excess deferrals weren't distributed;
8. wage deferrals weren't deposited in a timely manner;
9. if permitted by the plan, employee loans didn't conform to the terms of the plan and Section 72(p) of the Code;
10. hardship distributions, within "hardship" circumstances as reasonably detailed within the plan, were handled improperly;
11. the plan was top-heavy and required minimum contributions weren't made to the plan;
12. and unfiled Forms 5500. ((See <https://www.irs.gov/pub/irs-pdf/p4531.pdf>.))

Elements of operating the plan include participation, contributions, vesting (immediate or scheduled vesting is permissible), nondiscrimination rules, investing trust assets, fiduciary responsibilities, disclosures to participants, reporting to governmental agencies, and, yes, distributing plan benefits.

In focusing the efforts of IRS auditors working on employee benefit plans, the Internal Revenue Manual mentions seven particular areas to review for compliance, such as whether hardship distributions were made in accordance with the plan, whether the employer or trustee complied with filing Forms 1099-R, and whether spousal consent was obtained when required by the plan and the Code. ((Internal Revenue Manual, 4.71.1.4, No. 14, Distributions.))

Mr. Ian Dingwall, Chief Accountant of the Office of the Chief Accountant, speaking of their study in 2014, noted four characteristics of "deficient auditors":

"*Inadequate technical training and knowledge.

*Lack of awareness of the unique nature of auditing employee benefit plans;

*Lack of quality control on audit processes; and

*A failure to understand the limited scope audit requirements." ((<http://www.dol.gov/ebsa/publications/2010ACreport2.html#toc1>.)

The limited scope concept relates to less stringent auditing rules for investments held by a bank or similar institution or insurance carrier. ((ERISA Section 103(a)(3)(C), <http://www.dol.gov/ebsa/publications/2010ACreport2.html#toc1>.)

In general, the audited financial statements of the plan must include the opinion of the independent qualified public accountant. The IQPA report generally consists of the accountant's opinion, financial statements, notes to the financial statements and any supplemental schedules. ((Instructions to the 2015 Form 5500, page 37.))

As with any audit, the auditor should plan on demonstrating the reasons for opining on the financials. This includes performing a detailed risk assessment of both the financial reporting and operations of the Plan, as well as performing detailed audit procedures. This is more than simply reconciling schedules to the financial statements, but rather involves reviewing documents supporting amounts and transactions shown in those schedules to ensure they were both properly recorded and are in accordance with Plan provisions and DOL and ERISA guidelines.

Part of the audience of the accountant's opinion is, of course, the IRS auditors, who are told to look for and review the report.

The Department of Labor's definition of "independent" accountant is close to the general standard but may be even more restrictive than those of the AICPA. ((12 CFR 619.9270, <https://www.law.cornell.edu/cfr/text/12/619.9270>. See also this discussion of whether the auditor might be auditing his/her own work: "Is Your CPA an 'Independent Qualified Public Accountant,'" <http://www.cpaspan.com/index.php/employee-benefit-plans/erisa-articles/141-independence>.)

It is possible that your plan, with its audit, will be further audited by the IRS. If so, you'll hear from a "specially trained agent..." ((The Employee Plans Examination Process - Internal Revenue Service - Tax Exempt and Government Entities (TE/GE) Division. https://www.irs.gov/pub/irs-tege/exam_overview.pdf.) The detailed description of that exam process outlines an appeals process, which is to say the



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issues can be difficult, complicated and controversial.

Section 401(k) plans may not be the most complicated type of employee benefit plan, but they are complicated and exist in a complex environment that tries to balance the interests of the parties while primarily looking after the interests of the employees.

The Scrutiny of the Auditor is Increasing

The understandable emphasis is to safeguard the employees who are to benefit from the Section 401(k) plan. The governmental concern about the work of auditors has been present for some time, but the concern is if anything growing. One would generally expect from the literature and actions of the regulators that scrutiny of auditors and possibility of penalties is going to increase.

In a 2014 study by the DOL released in 2015 of filings of Form 5500 for 2011, the DOL found “major deficiencies” in 39% of them, and a 76% deficiency rate among firms that did one or two of such audits. ((<https://www.dol.gov/ebsa/pdf/2014auditreport.pdf>, page 1.))

Conclusion

The world of employee benefit plans is unique and complicated in so far as the tax and maze of other rules and regulations that pertain to their operation and qualified status.

The management of the auditing firm needs to examine closely its exposure and generally the level of commitment the firm must embrace to render quality audits of Section 401(k) plans, even if it audits only a few such plans. Those choosing the auditing firm have responsibilities beyond just measuring the fee.

The regulatory environment is one that suggests that in the future, there may be even closer scrutiny of the auditor and the audit process for such plans, and those charged with the responsibility of selecting the auditing firm.



About the Author

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From A to Zuckerberg: New Tech & Social Media for Tax Accountants

Josh Dye

New tech and social media are driving almost minute-by-minute change in the digital landscape, creating challenges and new opportunities for tax accountants' businesses to grow, change and thrive.

Do you want the good news or the bad news first? Let's start with the bad news. Unfortunately, the behaviors and preferences of your clients, staff, and co-workers are changing, constantly. We have technology to thank for this inconvenience. It is overwhelming to figure out which new technologies to embrace and implement, and which trends you can let pass you by.

What is the good news? You don't need to use all of the new technology. However, you must understand how it is impacting the ways people want to find, communicate, pay, and interact with your business. This requires you to adapt, not overhaul your operations. Fortunately, adapting is easier than ever. Let's look at three ways.

Q. How will my next (non-referral) customer find my business?

A. Facebook Ads.

Go to www.facebook.com/business. You have likely seen “sponsored posts” pop up on your news feed. These posts come from people using Facebook’s advertising program. It is affordable (You can get some serious exposure for just \$50-\$100) and offers HIGHLY targeted options. For example, you can target ads to people based on:

- How close they live to your business.
- Age
- Gender
- Income
- Net worth
- Generation (Baby Boomers, Millennials, etc.)
- Homeowners or renters
- Life Events (new relationship, new job, etc.)
- Political affiliation

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- Interests, hobbies, activities
- Job role and more!

Don't get overwhelmed by all of the options. They are just that, options. The less you choose, the broader your audience. It doesn't cost much money, so you can experiment with what works best for your customer profile and area. All that it takes to get started is a Facebook page for your business and a few minutes to get used to the system. Get after it!

Q. I have an advertising budget of zero. How can I get people to my website?

A. Let's talk briefly about Google Maps and SEO (search engine optimization).

Go to www.google.com and type "tax accountant Minneapolis" (or choose your own city). On your screen you will see a list of businesses, and their locations on the map. You can control the information and look of your Google Maps listing. Make sure to add the following to your listing:

- Hours of operation
- Contact information
- Categories (the different services you provide)
- Short introductory message
- Photos
- Respond to reviews and/or ask people to give you reviews!

To update your Google Maps listings, go to www.google.com/business

Now let's talk about your website and SEO for a moment.

I suggest you do keyword research to see what people put into the Google search bar when they are trying to find a tax accountant. In short, you want to make sure you have the words on your website that people put into Google when they perform a tax-related search.

For example, the keyword "tax preparation Minneapolis" gets 50 searches each month on Google. The keyword "tax accountant Minneapolis" gets 40 searches, and "tax planning Minneapolis" gets 10. It is likely that some of the people doing those searches are prospects for someone who prepares taxes in Minneapolis.

Your website will perform better in a Google search if you have a lot of unique, valuable information that includes the keywords that people use when they search for information about taxes, tax preparation, and the other services your business offers.

Go to www.google.com/adwords. Once logged in, do the following:

- Click on "Tools"
- Click on "Keyword Planner"
- Click on "Get search volume data and trends"

In the box type keywords that you believe people put into Google when they search for a business like yours. Then click on "Get Search Volume." The results will show you how often those terms are searched for each month in Google. Do your research, and then make some changes to the content on your website!

Q. I'm tired, but I have one more question.

A. Go ahead...

Q. I have an ugly website and a limited budget. What should I do?

A. I will give you three options...

1. Use Facebook as your website. Why? It is free, easy to use (and make look good!), everyone uses it, it shows up in Google searches, and you can include the essential information about your business and services. If you have a dated, ugly, ineffective website, and don't want to build a new one, just kill it and use Facebook!



2. Use www.freelancer.com. [Freelancer](#) is a place where you can find web designers and developers all over the world who will build a website for a competitive price. Give it a try!
3. Check out www.fiverr.com, www.canva.com, and www.getstencil.com. These options offer easy-to-use design tools that can improve the look of your website or social media accounts at no or low cost. Check them out!

Do you have more questions or need help? Email me at Josh@convenellc.org, or text/call me at 612-481-8059.



About the Author:

Josh Dye is the President & Founder of Convene, LLC, a speaking, training, and marketing consulting company.

Leadership transcends position and hierarchy. It is about initiative, passion, forward-thinking, asking tough questions, calculated risks, and decisive actions during moments that make your heart pound.

Professional and personal leadership takes courage. This is where thought-provoking presentations and consulting by Josh Dye and Convene, LLC make the difference. Since 2010, attendees of his presentations have learned how to harness the courage to lead, create, have tough conversations, maximize precious time, and leverage moments of failure for meaningful growth.

Josh Dye will be presenting this topic as a seminar at the National Society of Accountants Annual Meeting on August 20th in Tampa. Later that afternoon, he will be leading a roundtable discussion on social media and technology for the for the tax accountant's business. Learn more [here](#).



Offers in Compromise: A Seldom Used but Powerful Tool in Your Tax Resolution Arsenal

Jassen Bowman

While the Offer in Compromise program is the least commonly used tax debt resolution tool, it can be a very powerful tool when your client is eligible.

Whenever you hear the phrase “pennies on the dollar” in relation to federal tax liabilities, you are hearing a reference to the Offer in Compromise (OIC) program.

The OIC program is intended to give taxpayers without the financial means to pay their tax debt a way to pay whatever they have, and then start over. In many ways, an OIC is similar to a bankruptcy filing on taxes only. The major difference, however, is that an OIC is an administrative proceeding, rather than a court proceeding.

There are some unlicensed sales representatives at some national tax resolution firms that will promise everybody they talk to that they qualify for this program. Unfortunately, not only is this obviously unethical, but it's also incredibly incorrect.

According to data from Table 16 of the IRS Data Book, the IRS closed out over 7.1 million collections cases in fiscal year 2015. The IRS accepted 27,000 Offers in Compromise out of the 67,000 applications submitted. So, not only were nearly 60% of OIC applications rejected, but only 0.38% of closed Collections cases were closed out through the OIC program.

In other words, the Offer in Compromise program is the least frequently applicable resolution strategy for a federal tax debt. This is contrary to what many people believe, including within the professional tax community.

Among the hundreds of taxpayers I've represented in front of SB/SE Collections, the vast majority of them are ultimately resolved through a payment plan. Another 10 to 15% are resolved through the Currently Not Collectible (CNC) program, also commonly referred to by its IRS computer code, Status 53. If you choose to specialize only in Collections representation, you'll quickly discover that very few cases are closed out through the OIC program.

With that said, it's still important to have a firm grasp on how this program works. In addition, I'm a firm believer in using the offer calculation formula as a tool for helping you determine the best resolution strategy for your client. By calculating the Reasonable Collection Potential (RCP), you will then know what the IRS expects to be able to collect from the taxpayer. If the taxpayer owes more than the RCP, s/he might be a good OIC candidate. If s/he owes less than RCP, s/he is most likely going to

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end up in an Installment Agreement. If RCP is less than zero, then s/he is a good CNC candidate.

An Offer in Compromise application will require complete financial disclosure. In other words, a full and accurate Form 433-A or Form 433-B will be required, along with complete supporting documentation. Because the government is going to accept less money for the tax debt than what the taxpayer owes, they are going to go to great lengths to make sure the taxpayer actually qualifies. If you submit full and proper documentation, and offer the full amount of the calculated RCP, you're all but guaranteed to have your OIC accepted.

Some taxpayers will file an OIC simply to "buy time" to figure something else out, since the process normally takes around 12 months for an Offer application to be processed. While this may sound like a worthwhile strategy, it should be noted that the 10-year statute of limitations on the government's ability to collect the tax debt is extended day-for-day while an offer is in processing, plus 30 days after it is ultimately denied. Extending statute of limitations is, in most cases, detrimental to the taxpayer in the long run.

It's also important to mention that the OIC program is not just a tool for Enrolled Agents, CPAs, and tax attorneys. While you must have one of these licenses to represent a taxpayer during the Collections process, any unenrolled preparer with a PTIN can prepare the OIC application for any taxpayer. In other words, while an unenrolled preparer cannot represent the taxpayer through the Offer process, you can most definitely prepare the Form 656—and charge a handsome fee for doing so.

Eligibility

A taxpayer's eligibility to settle for less than what is owed is directly related to the RCP. As previously mentioned, if the offer amount is equal to or greater than the minimum amount calculated using the IRS formula, then the taxpayer may be eligible to file an Offer in Compromise.

In addition, the taxpayer must:

- Have filed all past due tax returns
- Not currently be generating new tax liabilities
- Agree to properly file and pay on all tax returns, on time, for the next 5 years
- Agree to let the IRS keep any tax refunds otherwise coming through the year in which the OIC is accepted.

Failure to abide by these rules will result in rejection of the offer, or default the offer agreement and result in full reinstatement of all tax liabilities that were eliminated – plus full penalties and interest that would have accumulated in the meantime.

Payment Options

In addition to a \$186 application fee, a taxpayer is required to make payments on the Offer in Compromise, unless s/he meets low income qualification guidelines for an exception to this rule.

The first payment option is used when the taxpayer will pay the entire amount of the settlement offer within five months of acceptance or less. With this option, the entire offer amount may be paid with the application, of course, but a minimum non-refundable deposit of 20% of the offer amount must be submitted with the application unless the taxpayer meets low income qualifications. Using this lump sum payment option provides the benefit of not being required to make regular payments on the offer while it is being processed. Using this option also results in paying the smallest possible offer amount, because the taxpayer's remaining income under the RCP calculation formula is only multiplied by 12 months.

The second payment option, periodic payment, requires the taxpayer to make regular payments on the OIC while the IRS is considering it. These payments are non-refundable, and the first payment must be included with the Offer application on your Offer in Compromise while the IRS is considering it, unless the taxpayer meets low income guidelines. Under the periodic payment option, the taxpayer must pay the full offer amount within 24 months.

Keep in mind that penalties and interest continue to accrue on the tax liability while OIC payments are being made, even though ultimately those penalties and interest go away when the Offer is paid off and settled. If the taxpayer defaults on the OIC terms, however, those accrued penalties and interest are added back on to the balance due, and the taxpayer will be held liable for the full amount.

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Offer Calculation

Many unlicensed tax resolution salespeople, either through ignorance or simply gross incompetence, will tell everybody that they talk to that they qualify for an OIC, and that the offer amount is some percentage of what they owe.

In addition to this horrifically unethical practice, some tax resolution firms will also only tout their most successful OIC applications, showing prospects that they did indeed get 1.2 cents on the dollar for one client, and 4 cents on the dollar for another client, all while failing to inform everybody that:

- a). Most of their OIC applications for clients were outright rejected, and...
- b). Those that were accepted were usually only for 50 or 75 cents on the dollar.

The offer amount is the single most important part of a successful OIC application. Calculating the OIC offer amount is extremely formulaic, and requires a complete and accurate Form 433 to be filled out. The IRS goes through an extensive investigation phase to verify information on the Form 433, looking for other assets the taxpayer may own or income that was not disclosed. In short, the IRS assumes the taxpayer is lying, and acts accordingly. The IRS looks at various public records sources, and may even pull a credit report to verify what has been listed on the 433.

Within the IRS booklet containing the OIC application, there are versions of the Form 433-A and Form 433-B that are modified slightly for OIC purposes. If you use the PDF version of the booklet (just Google "IRS Form 656B"), the calculations are actually carried forward for you to the lines that determine the RCP.

In its simplest form, RCP is the sum of the net worth of the taxpayer's assets plus all of his/her disposable income for the next 12 or 24 months. In other words:

Settlement Amount = monthly remaining income x (12 or 24) + the net realizable equity in the taxpayer's assets

Remaining income, as opposed to the more common consumer term disposable income, is the taxpayer's monthly income minus allowable monthly expenses. It is important to recognize that the IRS will not allow all expenses that the taxpayer actually has. Common disallowed expenses are college tuition payments for a dependent, private school tuition, charitable contributions, tithing, vacation home payments, etc. This calculation is based on direct application of the IRS Collection Financial Standards.

The number of months over which disposable income must be calculated into the offer amount is based on the payment plan option selected. For the lump sum cash offer, remaining income is multiplied by 12 months. For the periodic payment offer, remaining income is multiplied by 24 months.

Net realizable equity in assets is the quick sale value of an asset, usually 80% of the Fair Market Value (FMV) minus any liabilities which are secured by said asset. As an example, if a taxpayer has a home worth \$100,000 and owes \$50,000 on the home, the IRS will calculate the net realizable equity in the asset as follows: $(\$100,000 \times .80) - \$50,000 = \$30,000$. The IRS expects, in this example, that the \$30,000 will be included in the offer amount.

Based on this explanation of how RCP is determined, and understanding that RCP is your minimum offer amount, it should be apparent why the IRS rejects so many OIC applications. In reality, the best OIC candidates are taxpayers that have very little in the way of assets, and no disposable income. The best OIC candidates often tend to be underemployed or unemployed.

Application Process

When you file an OIC, a process examiner will look over the paperwork to make sure that the offer is processable, meaning that all administrative eligibility requirements have been met. The process examiner will also check to make sure that forms are properly completed, the financial package is fully documented, and that all tax returns have been filed.

If an offer is deemed to be not processable, it will be returned to you with a letter from the process examiner explaining what you need to correct, and to resubmit your offer with those corrections.

If considered processable, an offer examiner will then be assigned to actually review the merits and financial aspects of the application. This is the person that verifies assets, orders credit reports, and gets very up-close-and-personal regarding every aspect of the taxpayer's financial situation.

The offer examiner will usually afford you the opportunity to address any inconsistencies s/he discovers in his/her findings, and allow you to argue on behalf of your client for the inclusion or exclusion of certain assets or expenses. For most taxpayers,

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this is where having professional representation can make a significant difference in the outcome of the Offer application.

Once the offer examiner has all the information needed to either accept or reject your offer, s/he will do so, and send you a letter explaining why.

Keep in mind that for the periodic payment offer, the taxpayer must continue to make monthly payments on the OIC while the review process is going on. These payments are non-refundable, but they can be designated. Encourage your client to write in the most recent tax type and period for which s/he owes on the memo line of the check: for example “apply to Q4 2015 trust fund only.”

Appeals

If an OIC is rejected, you have the right to know why, and also the right to appeal this decision. More often than not, a dispute over inclusion or exclusion of an asset or expense item will be the primary argument you take to appeals. Settlement officers have the authority to accept or reject an OIC based on their own findings, rather than the findings of the offer examiner.

Conclusion

While the OIC is the least commonly used tax debt resolution tool, it can be a very powerful tool when your client is eligible. For example, I have represented a number of clients with large payroll tax debts that used the OIC program to settle both their business and personal tax debts simultaneously. By accepting individual assessment of the Trust Fund Recovery Penalty, then doing an OIC for both the active business and the individual, it is possible to compromise six- and seven-figure payroll tax debts and leave the taxpayer with his/her livelihood intact.

In addition, creating the habit of always calculating RCP for all tax debt clients will help guide you in determining the resolution option that is best for the taxpayer. This not only saves time, but serves as a check-and-balance to help ensure you are providing the best representation possible.

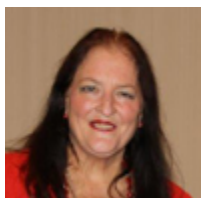


About the Author:

Jassen Bowman practiced exclusively in IRS Collections representation for eight years as an Enrolled Agent. He is the author of *Tax Resolution Systems*, available on Amazon, and is currently co-founder and CMO at Prolaera, a Seattle tech startup transforming the way accounting firms manage and deliver staff CPE.

WHY I BELONG

Member Profile



Vicki McGuar
Owner, McGuar
Accounting Service
Springfield, Ill

In this issue, we profile member Vicki McGuar, owner of McGuar Accounting Service, a leader and mentor in the National Society of Accountants community for 40 years.

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Marie Curie, the famed physicist and chemist who was a pioneer in the study of radiation, once said: “You cannot hope to build a better world without improving the individuals. To that end, each of us must work for our own improvement and, at the same time, share a general responsibility for all humanity, our particular duty being to aid those to whom we think we can be most useful.”

This type of thinking is the driving force behind many NSA members who give their time to assist others, strengthen the Society and further improve themselves.

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Vicki McGuar is one of those unique individuals who joined the National Society of Accountants (NSA) as a student. More than 40 years later, she is still an active member of the Society, a leader among leaders, and a major contributor at both the local and national levels.

Her journey from student member to active leader is an inspiration for others. Here is her story.

Why I joined NSA

“I come from an accounting family—my father was an accountant, my brother is a CPA—so this career field is in my blood.”

Vicki joined NSA in 1976 as a student working in her father’s practice. She was so impressed with what NSA had to offer students that she became involved in the local NSA chapter immediately and attended the NSA national convention.

“There were mentorship opportunities with big practices and I wanted to emulate their professionalism, so I took time to listen and learn.” Vicki said. “I attended the national NSA conventions with my father, joined sessions and networked with others. I still remember those meetings for the excitement of attending, the connections made and the information learned.”

One particular area of interest that Vicki credits as being helpful to her in her career—and life in general—were the local NSA chapter’s seminars and workshops on how to give presentations, to how give speeches. Public speaking and presentation skills weren’t part of her accounting coursework. “I wanted to learn how to be an effective speaker and presenter,” she said. “Those workshops were such an immense support, because I found that I use those skills as much as my accounting skills. From presentations to our clients to speeches and presentations at NSA functions, I use those skills.”

Why do you continue to be an NSA member?

“Everyone has different reasons for joining or being active. And, their experiences will be different. But for each of us, I would think that one of the strongest reason is the connections you make—the interaction you get with your peers. I didn’t feel that I was out there swimming alone. I could called any of the members in my state—or nationally—that I met through NSA for help or assistance.”

For Vicki, this support system proved vital when her father passed away suddenly and left her running the family business at an early age.

“When my father died in 1987, having NSA as my support system was vital. Shortly after his death, I had to speak to my company’s largest client and justify why they should retain our services. NSA helped me to stand on my feet, be a professional, and give the speech to this bold group so that I could show

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that I was knowledgeable, competent and skilled to keep their business.”

Started by her father in 1965, McGuar Accounting Service has into an agency that completes 1400 returns per year and has 25 monthly clients, 15 of which are payroll and the rest are supported through financial reports, quarterly reports and related accounting services.

“We still have some original clients and we regard many of our clients as family,” Vicki noted. “But it is a business and our clients expect high-quality, accurate service, which is what we provide.”

What NSA product or service do you value most?

“The annual convention. I have not missed a convention in the 40 years I have been a member. I appreciate the networking that I can get and the interaction I have with members. Through the convention, I meet people that I know—by face and name—and I can reach out to them if I have questions or need assistance.”

For Vicki and her family, the NSA Conventions also served as an opportunity for a family vacation. “It was exciting, because we got to go to and see places we might never have gone to otherwise. Our family even teamed with fellow NSA member Donny Woods and his wife Susan, which made the trips even more exciting.”

“I always learn something through the convention—such as management, technology, 1031 exchanges—that you won’t get through the local level, but you can get at the national level.”

What value-added benefit do you feel your NSA membership offers?

“The educational sessions that tie into the certification and accreditation programs I feel are a great value to members.”

Vicki has a number of professional designations, which she began when the Accreditation Council for Accountancy and Taxation (ACAT) was formed. “I started doing the Enrolled Agent (EA) exam and ACAT. I then moved on to the Accredited Tax Preparer (ATP) and received the highest score on the exam for that year, which was a great achievement since I don’t feel I test well. I continued on and earned an Accredited Business Accountant/Advisor (ABA) designation.”

What is the biggest change you have seen in NSA—and your field—over the years?

“When I first started out as a student member, and then becoming a young member, there were not many women in the profession. So, when I attended the NSA conventions, very few women were there in attendance. It reflected the field. Today, there are more women than ever before and I think this trend will keep growing.”

Interestingly, according to the Journal of Accountancy, by 1951 there were approximately 500 female certified public accountants. Yet, according to a recent study by the American Institute of CPA’s, “2015 Trends: In the Supply of Accounting Graduates and the Demand for Public Accounting Recruits,” 63% of all accountants and auditors in the United States are women.

How has being an NSA member guided you—or others—at varying stages of professional growth (student, young professional, seasoned professional, etc.)?

“I can’t stress enough that it is the connections made through NSA that is the most beneficial. And those connections have helped guide me through my career.”

Vick points out that NSA helps in all different angles—from the student, to the young professional, to the seasoned professional. And she credits NSA membership as being equally helpful for those who own or work for small agencies as well as large agencies.

“NSA has helped because we stay informed of changes on the state level and as well as national. That’s a nice one-stop feature to getting all the information we need to stay current on issues affecting our field.”

Being active in NSA was a large part of Vicki’s professional growth. She has served as Chairperson on nearly 20 Committees and is currently serving on the Awards, Membership and History Committees. Additionally, she was elected to and served four years as the District V Governor on the NSA Board of Governors.

“Early on, I was appointed to a number of council and chair positions that helped me to be active as well as learn and interact with fellow members. And the leadership experience I gained through these opportunities has helped me grow both personally and professionally.”

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What advice would you give New Members to get the most out of their membership?

“I was taught by example that to take on a challenging office in our profession new members—or even current uninvolved members—would benefit most by starting with involvement in chapter activities, working through their State organization, and then move on to assume duties at the National level.”

Vicki often gets asked to recommend or suggest new members and others for specific tasks, committees and action items. “It’s important that we at the local level share with national those individuals who have a talent or interest in certain areas—such as legislation—to get members involved.”

But Vicki is quick to point out that only 30 percent of NSA members are members of an affiliated state organization (ASO). Since NSA membership is not tied to state membership, volunteers who are not members or active in an ASO can still participate on the national level.

“I’d recommend that new members get involved immediately, even in the most modest of committees so they can ease into getting involved, getting to know NSA, its leaders, other members, and then become more involved in actually doing things. There is always a committee that needs help. All you need to do is ask. And all members can come to the leadership seminar to learn more about getting involved.”

The difficult part, according to Vicki, is finding time to be an active volunteer—especially if you are running your own small business.

“I run a small business and have to be in my practice every day to keep it active. If I can find time to be active and take on 20 leadership roles, others can as well. In addition to improving your own professional development, it’s about giving back.”

Final remarks:

“I am very fortunate that NSA and its members have given me so much. I want to give back like others who gave to me. I’m hoping more NSA members feel the same way. It’s now up to us to help mentor new members coming because they are our future.”

Follow the



on Social Media!



**Be sure to join in on the discussions in
our [LinkedIn group](#).**

• ALL AROUND NSA

• Resources for your business

NSA PRESENTS CONNECTED SUMMER/FALL 2016 WEBINARS

NSA offers a variety of professional development opportunities for today's accounting and tax professional. ConnectED webinars are offered both live and on demand.

Order four or more live or archived webinars in one order and receive a 20 percent discount.

A complete list of webinars can be found at <https://nsawebinars.nsacct.org>, including a full lineup of recorded, on-demand CPE webinars that are available for purchase.

Bonus Depreciation Update & Cost Segregation

Tax Planning

08/04/2016 at 2:30 PM (EDT)

[Register](#)

Tax Professionals with International Clients

08/09/2016 at 2:00 PM (EDT)

[Register](#)

Using Business Tax Credits to Reduce a Firm's Effective Tax Rate

Sept. 21, 2016

[Register](#)

Jolly Ranchers: Schedule F & J

September 22, 2016

[Register](#)

Quick Tips for QuickBooks

October 4, 2016

[Register](#)

Retirement Planning

October 5, 2016

[Register](#)

The World of Payroll: Topics and Updates

October 18, 2016

[Register](#)

Sales of Personal and Business Assets

October 26, 2016

[Register](#)

HRAs: Hidden Tax Savers

November 1, 2016

[Register](#)

Ethics in the Eye of the Beholder: What Conduct is Most Likely to Result in Discipline under Circular 230?

11/02/2016 at 2:00 PM (EDT)

[Register](#)

Basic Gift and Estate Planning

November 9, 2016

[Register](#)

Best Practices: Compliance and Documentation

11/15/2016 at 2:00 PM (EST)

[Register](#)

Vacation Home Rentals

December 7, 2016

[Register](#)

Business Tax Credits: The Elusive Form 3800

December 8, 2016



Don't Sell On Your Own.
Obtain the optimum price for your firm.



ACCOUNTING
PRACTICE
SALES





NSA ANNUAL MEETING AND LIVE EA COURSE IN TAMPA, AUGUST 15-20

It's not too late to AMP IT UP and register for NSA's Annual Meeting at the Grand Hyatt in Tampa this month.

The meeting will draw accountants and tax professionals from across North America. Courses at the meeting offer 16 hours of continuing professional education (CPE) and networking opportunities that will help attendees ramp up their marketing, customer service, and growth strategies; reduce risk; save time and money; and increase profits and the value of their businesses.

Karen Hawkins, the former director of the IRS Office of Professional Responsibility, is a featured speaker delivering a talk on "Ethics in the Eye of the Beholder: What Conduct is Most Likely to Result in Discipline Under Circular 230?"

On Friday, August 19, courses and speakers include:

- How to Implement SSARS No. 21: The Protocols and Practicalities of the New Standards for the Preparation, the Compilation and the Review. Speaker: Joseph Santoro, CPA, ABA, the 2015 NSA Accountant of the Year, Gear-Up presenter from 1994 - 2015, and now a presenter for Bob Jennings Tax and Accounting Seminars.
- Retirement; Estate Planning for the 99% & Common Estate Planning Mistakes. Speaker: Steven G. Siegel, JD, LL.M., president of The Siegel Group, which provides consulting services to attorneys, accountants, business owners, family offices and financial planners.

For Saturday, August 20, courses and speakers are shown below. Each speaker will also lead two roundtables as a follow-up to their session.

- Ethics in the Eye of the Beholder: What Conduct is Most Likely to Result in Discipline Under Circular 230? Speaker: Karen Hawkins, the former director of the IRS Office of Professional Responsibility and IRS insider. She will also lead two roundtable discussions on the topic, "Ethics in the Eye of the Beholder – Putting Knowledge Into Practice."
- From A to Zuckerberg: New Tech & Social Media for Tax Accountants. Speaker: Josh Dye, president and founder of Convene, LLC, a speaking, training, and marketing consulting company. He will also lead two roundtable discussions on the topic, "Social Media & Technology for a Tax Accountant's Business."
- Time Management in Your Practice. Speaker: Jeffrey A. Schneider, EA, CTRS (Certified Tax Resolution Specialist), a National Tax Practice Institute (NTPi) Fellow and principal at SFS Tax & Accounting Services. He will also lead two roundtable discussions on this same topic.
- Positioning Your Practice for Growth. Speaker: Katie Tolin, founder of CPA Growth Guides, LLC and a past president of the Association for Accounting Marketing. She will also lead two roundtable discussions on overcoming obstacles to specialization and which growth strategies produce the greatest return. For the past two years, Accounting Today named Tolin 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.

Preconference EA Exam Prep Course

NSA is also offering a preconference Enrolled Agent (EA) Exam Review Course August 15-17. It is an intensive course designed to help attendees master the tax basics and is proven to help them pass the EA exam the first time. Detailed study notes will be provided for each topic, including figures and charts that prove the old adage that "...a picture is worth a thousand words." Hundreds of past exam questions from the open-exam era and many more potential questions on newer topics are incorporated and each is reviewed in class so the real exam itself will look like an old friend. Study tips, tricks and shortcuts are a staple of this course.

It will be taught by two leading experts:

Continued on the following page

- John O. Everett, CPA, Ph.D., Professor Emeritus of Accounting at Virginia Commonwealth University in Richmond, VA.
- Bill Duncan, CPA, Ph.D., Associate Professor of Accounting at Arizona State University. He was formerly a Director with Ernst & Young where he guided tax education for the firm.

Preconference ATP Exam Review Course

An Accredited Tax Preparer (ATP) Exam Review Course – also taught by Everett and Duncan – will take place on August 15 with the optional exam given on August 16. Earning the ATP credential from the Accreditation Council for Accountancy & Taxation (ACAT) exempts practitioners from taking and passing Annual Federal Tax Refresher courses and exams each year, which are a component of the Internal Revenue Service (IRS) Annual Filing Season Program (AFSP).

NSA is approved as an official provider of CPE by the National Association of State Boards of Accountancy (NASBA), Internal Revenue Service (IRS), Accreditation Council for Accountancy & Taxation (ACAT) and California Tax Education Council (CTEC).

Networking and Social Events



The meeting offers many networking opportunities and social events, beginning with the Welcome Reception on August 17 and concluding on April 20 with an exciting dinner and show, “Experience the Fire of Flamenco,” at the original Columbia Restaurant – Florida’s oldest continuously operating restaurant – in Tampa’s historic neighborhood of Ybor City.

Full Annual Meeting registration packages are now available for \$679 for NSA members and \$825 for nonmembers (including a full year of NSA membership) until July 8.

A lower-priced two-day education registration option – which includes programs on August 18 and 19 only – is also available for \$499 for NSA members and \$550 for nonmembers until July 8.

NSA is approved as an official provider of CPE by the National Association of State Boards of Accountancy, Internal Revenue Service, ACAT and California Tax Education Council.

EA Live Course Registration: Choose Any 1 Part or All 3!

Complete Course (all three parts)

NSA Member/ACAT Credential Holder: \$650

Non-member: \$750

EA Part 1/ATP Combo Course:

NSA Member/ACAT Credential Holder: \$250

Non-member: \$300

ATP Exam Fee: +\$75

EA Part 2:

NSA Member/ACAT Credential Holder: \$350

Non-member: \$400

EA Part 3:

NSA Member/ACAT Credential Holder: \$195

Non-member: \$250

Register for the EA Live Course

Requests for refunds must be received in writing and will be subject to a \$75 cancellation fee. For more information regarding refund, complaint and/or program cancellation policies, please contact our offices at (800) 966-6679.

Full Conference Registration Rates

NSA Members: \$679; Nonmembers: \$825

Register Today!

Annual Meeting schedule

Registration Packages

Hotel and Travel information

For more information and to register, visit www.nsatampa2016.org or contact NSA at 800-966-6679 or members@nsacct.org.

TAMPA IT UP

NSA 71ST ANNUAL MEETING & EXPO 2016

AUGUST 17-20, 2016 • TAMPA, FLORIDA



Register by
July 8th to Save
\$100

REGISTRATION FORM

Please print legibly to avoid errors and delays on-site

Name _____

Title _____

Name to Appear on Badge _____

Company _____

Street Address _____

City _____

State _____ Zip _____

Phone _____ Fax _____

Email _____

NSA Member ID# _____

CTEC Member ID# _____

PTIN# _____

- ☐ This is my first NSA Annual Meeting
☐ I am an ACAT credential holder
☐ Special meal request: _____
☐ I have special needs and would like to be contacted by an NSA representative

4 EASY WAYS TO REGISTER

ONLINE www.nsatampa2016.org

MAIL this form with a check or credit card payment to:
NSA, 1330 Braddock Place, Suite 540, Alexandria, VA 22314

FAX form with credit card payment to: 703-549-2984

CALL 800-966-6679

METHOD OF PAYMENT

☐ Check ☐ Discover ☐ MasterCard ☐ Visa ☐ AmEx

Credit Card # _____ Exp. Date _____

Signature _____

Total Due: \$ _____

Cancellation Policy: Registration fees are refundable (less a \$75 per registration administration fee) until August 1, 2016.
No refunds after August 2, 2016.

Questions? Call NSA toll-free: 800-966-6679

REGISTRATION PACKAGES

Early Bird Discount

Postmarked by: July 8 After July 8

Full Conference

Includes a full year
NSA Membership!

NSA Member: ☐ \$579 ☐ \$679
NSA Nonmember: ☐ \$725 ☐ \$825

16-Hour CPE Package

NSA Member: ☐ \$399 ☐ \$499
NSA Nonmember: ☐ \$450 ☐ \$550

Spouse/Guest:

☐ \$240 ☐ \$299

The Spouse/Guest Package is intended for guests of NSA members and is not available to NSA members.

Each child 3-12: ☐ \$99

Spouse/Guest/Child Name _____

Spouse/Guest/Child Name _____

Spouse/Guest/Child Name _____

FOR REGISTRATION PACKAGE DETAILS, CLICK HERE.

EA Exam Review Course & Accredited Tax Preparer Review Course/Exam

Monday, August 15

EA Part I: Individuals/Accredited Tax Preparer (ATP) Exam Review Course

Tuesday, August 16

EA Part II: Businesses
Accredited Tax Preparer (ATP) Exam (Proctored)

Wednesday, August 17

AM: EA Part II: Businesses
PM: EA Part III: Representation, Practices and Procedures

NSA Member/ACAT
Credential Holder Non-member:

| | | |
|------------------------------------|--------------------------------|--------------------------------|
| Complete Course (all three parts): | <input type="checkbox"/> \$650 | <input type="checkbox"/> \$750 |
| EA Part 1/ATP Combo Course: | <input type="checkbox"/> \$250 | <input type="checkbox"/> \$300 |
| ATP Exam Fee: | <input type="checkbox"/> \$75 | <input type="checkbox"/> \$75 |
| EA Part 2: | <input type="checkbox"/> \$350 | <input type="checkbox"/> \$400 |
| EA Part 3: | <input type="checkbox"/> \$195 | <input type="checkbox"/> \$250 |

NSA PAC Suite Deal Raffle

Buy your NSA PAC Suite Deal Raffle ticket(s) and you'll be entered to win an upgrade from a standard room already purchased to a Suite for up to 5 nights. Raffle ticket sales end on August 1st.

NSA PAC Suite Deal Raffle Tickets: \$50 each x _____ = _____
The PAC can not accept corporate contributions.

NSA Scholarship Walk Donation:

Pre-registration: \$35 per person x _____ = _____
Sleep in for Scholars \$50 per person x _____ = _____

NSA Office Use Only: ___ ACAT ___ GG ___ SD ___ VIP ___ CC ___ FT ___ ASO

TAMPA IT UP

NSA 71ST ANNUAL MEETING & EXPO 2016
AUGUST 17-20, 2016 • TAMPA, FLORIDA



NSA
National Society of Accountants

Register by
July 8th to Save
\$100

ADDITIONAL DETAILS

REGISTRATION PACKAGE DETAILS

Your Full Registration Package is All-Inclusive!

You Get:

- 16 Hours of CPE including Roundtables
- Three Continental Breakfasts
- Awards Luncheon
- Two Lunch Vouchers
- Welcome Reception
- Dessert Reception
- Expo
- ACAT Reception
- Hospitality Suite
- Installation Reception and Banquet
- Experience the Fire of Flamenco Dinner and Show



16-Hour CPE Package

The CPE Package on Friday, August 19 & Saturday, August 20 Includes:

- All CPE sessions and facilitated roundtables
- 16 hours CPE in Tax, Accounting, Ethics and Practice Management Topics
- Continental breakfast on Friday and Saturday
- Lunch vouchers on Friday and Saturday
- Experience the Fire of Flamenco Dinner and Show

The Spouse/Guest Registration Package Includes:

- Three Continental Breakfasts
- Welcome Reception
- Dessert Reception
- Awards Luncheon
- Installation Reception and Banquet
- Experience the Fire of Flamenco Dinner and Show

The Spouse/Guest Package is intended for guests of NSA members and is not available to NSA members.

Child Registration Package (ages 3-12) includes all meals.

HOTEL INFORMATION

Grand Hyatt Tampa Bay

2900 Bayport Drive
Tampa, FL 33607

Room rate: \$139 single/double

Reservation cut off date: 7/22/16

(888) 421-1442 • Ask for National Society of Accountants Group

MAKE A HOTEL RESERVATION ONLINE NOW

Complimentary Airport Shuttle available from 5:00 AM – 1:00 AM daily to and from Tampa International Airport (5 minutes away) departing the hotel every half hour or upon request for pick up.

Parking at the Hyatt is free and complimentary standard internet access is included in each guestroom.





NSA Live EA Exam Review Course/Accredited Tax Preparer Course & Exam

Pass the IRS Special Enrollment Exam the first time with NSA's Enrolled Agent Exam Review Course

Want to earn the Accredited Tax Preparer (ATP) credential and be exempt from the Annual IRS Filing Season Program Tax Refresher Course each year? Take Part 1 of the EA course and the ATP exam onsite!

NSA's Enrolled Agent Exam Review Course is a comprehensive and intensive—and we mean intensive—review geared toward a single purpose: to help you master tax basics and pass the EA exam.

Detailed study notes will be provided for each topic, including figures and charts and more. Hundreds of practice exam questions are incorporated and each is reviewed in class so the real exam itself will look like an old friend. Study tips, tricks and shortcuts are a staple of this course. *Earn up to 24 Hours CPE!*

Presented by William A. Duncan, CPA, Ph.D & John O. Everett, CPA, Ph.D

BONUS! Get the NSA Enrolled Agent & ATP Review Courses (online & PDF)—a \$300+ Value!

“ I have taken and passed all three parts and filed form 23! Thank you John and Bill for teaching an outstanding EA Exam Course. I couldn't have done it without you! ”

Name _____ NSA/ACAT ID# _____

Company _____ Address _____

City _____ State _____ Zip _____

Phone _____ Email _____

| <i>Choose Any 1 Part or All 3!</i> | NSA Member | Nonmember |
|--|---------------|-----------|
| Complete Course (Parts 1, 2 & 3) August 7 - 9; 8:00am – 5:00pm each day | ___\$650 | ___\$750 |
| Part 1: Individuals/ATP Combo Monday, August 15; 8:00am - 5:00pm | ___\$250 | ___\$300 |
| Part 2: Businesses Tuesday, August 16; 8:00am - 5:00pm Wednesday, August 17; 8:00am - 12:00pm | ___\$350 | ___\$400 |
| Part 3: Representation, Practices & Procedures Wednesday, August 17; 1:00pm - 5:00pm | ___\$195 | ___\$250 |
| ATP Exam Tuesday, August 16; 9:00am - 12:00pm | ___\$75 | |
| Total \$_____ | | |

Hotel Information

Grand Hyatt Tampa Bay
2900 Bayport Drive
Tampa, FL 33607

Group rate: \$139 single/double
(888) 421-1442

Ask for National Society of
Accountants Group
*Reserve by July 22, 2016 to receive
the group rate.*



Accreditation Council
for Accountancy and Taxation

Payment Information

Credit card: ☐ Discover ☐ MasterCard ☐ Visa ☐ American Express ☐

Check made payable to NSA

Card Number _____ Exp. Date _____

Cardholder Signature _____

Return to: NSA 1330 Braddock Place, Suite 540 Alexandria, VA 22310; Fax: 703-549-2984; members@nsacct.org

Questions? For more details including CPE information, go to <http://www.nsacct.org/eacourse> or call NSA at 800-966-6679

NSA PROXY VOTING AND ELECTION INFORMATION

NSA strongly urges all members who are either an Active or Life member (“Voting Members”) to exercise their right to vote in this year’s annual elections-

Proxy forms must be submitted to NSA by August 7

There are two types of proxies: General and Limited.

General Proxy: given to a specific individual named as the proxy holder. The general proxy gives the proxy holder the right to vote as he or she sees fit on any business that may come up at a meeting, including voting on candidates for office or Bylaw changes.

Limited Proxy: directs the proxy holder to vote on behalf of the issuer for the candidates for NSA office as directed by the issuer. Limited proxies, because they are given to a proxy holder in advance of the annual meeting, may not be used to vote on matters that may initially arise at the meeting or are not specifically on the agenda.

Proxy forms must be received in the NSA office no later than 5 PM EDT on Sunday, August 7, 2016 to be valid.

General Proxy holders are allowed to vote on Bylaw changes but Limited proxy holders are not because it is unknown whether there will be a vote on a specific proposal at the Annual Meeting.

Forms and instructions are available [here](#).

Proposed NSA Bylaw Amendments:

The proposed Bylaw amendments will be voted on at the NSA Annual Meeting in Tampa, Florida, on August 18.

Members may submit comments on the proposed amendments to the NSA Bylaws Committee at members@nsacct.org. Responses to any questions or comments will be posted to the NSA website.

Here are proposed NSA Bylaw Amendments and descriptions:

- [Article XIII](#)
- [Article XIV](#)
- [Article XV](#)

The first two proposals, amendments to [Article XIII](#) and [Article XIV](#), are basic housekeeping issues. The sponsoring members believe both of these amendments are merely updates to language to reflect current practice and are not substantive changes. For example, the amendment to Article XIII addresses the use of technology – specifically email and the NSA website - by deleting the word “mailed” with respect to the notice of the Annual Convention and using the word “notify” instead. The amendment also deletes references to the “National Council of Delegates” and to a “convention manual” that has, in practice, not been produced in many years. The amendments to Article XIV are similarly non-substantive and seek to update language while moving into one Article of the Bylaws all existing provisions relating to eligibility for office, length of the term of office, which members are eligible to vote, etc.

The proposed amendment to [Article XV](#) addresses the inconsistency between the NSA Bylaws and the Delaware statute allowing the NSA Board to authorize “voting by electronic transmission”, or online voting.

At this time, NSA is seeking out members within the “new generation in our industry.” As we are all aware, this generation lives in the electronic world but they are individuals that want and deserve a voice in NSA – their chosen professional society. We need to provide them the opportunity to interact with NSA in the way that is most comfortable to them. Simplifying the NSA voting system by adapting full electronic voting is just one step to ensure longevity for our organization. With the acceptance of the proposed changes set forth in Article XV, we ensure that each member has a simple, secure voting platform while retaining the right to grant their proxy to another member if they are uncertain of their vote and wish to exercise their rights as an NSA member.

NSA Voting Quick Links

[Meet the Candidates](#)

[NSA 2016 Voting Procedures](#)

[Proxy Voting](#)

[Annual Meeting Rules](#)

[Proposed ByLaw Amendments](#)

[Register for Tampa](#)



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Rather than controlling your business, we help *you* take control of your business...and your future.

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- Retain your business' independence and identity*
- Leverage strategies & tools to attract new clients
- Remain compliant & up-to-date
- Plan for the future based on your goals



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Helping you be **BETTER** at what you do best.

Take Your Business
Where **You** Want To Go!
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GEAR UP IN MOHEGAN SUN NOVEMBER 10-11, 2016

NSA Gear Up 1040 Tax Seminar Returns to Mohegan Sun Resort in CT, November 10-11.

2-Day 1040 Course Details

NSA's comprehensive Gear Up 1040 Individual Tax Seminar covers key tax issues for completing complicated individual returns. All topics include coverage of new legislation, revenue rulings and procedures, as well as case law to help the busy practitioner keep current. Speakers are all practicing preparers who share practical tips and insights to help you get ready for this tax season. Speakers are all practicing preparers who share practical tips and insights to help you get ready for this tax season.

Schedule:

November 10: 8:00 am – 4:45 pm

November 11: 8:00 am – 4:45 pm

16 hours CPE

13 hrs Tax + 3 hrs Tax Update Register Online

[Download Learning Objectives](#)

.....

Register by October 1st and Save!

NSA Member: \$365

Non-member: \$425

After 10/1/16:

NSA Member: \$400

Non-member: \$459

[Register Online](#)

Refunds and Cancellations:

Requests for refunds must be received in writing by October 1, 2016, and will be subject to a \$75 cancellation fee. No refunds will be granted after October 1, 2016.

For more information regarding refund, complaint and/or program cancellation policies, please contact our offices at (800) 966-6679.

Hotel Information



Mohegan Sun Casino and Resort,
1 Mohegan Sun Boulevard
Uncasville, CT 06382

General Information: 1.888.226.7711

Hotel Reservations: 1.888.777.7922

[Click here to reserve your room online](#)

Group code: NSACC16

Group rate: \$149 plus 15% tax*

Daily resort fee discounted to \$9.95

Dates available: November 9-10, 2016

*Reserve your room by October 19, 2016 to receive the group rate.

Mohegan Sun, created in 1996 by the Mohegan Tribe of Connecticut, is one of the world's most amazing destinations with some of New England's finest dining, hotel accommodations, retail shopping, live entertainment and sporting events. Amenities include: three world-class casinos, a 10,000 square foot pool, a luxurious day spa, and a state-of-the-art Poker Room.

Make a vacation of it!

TAX-SEASON AUDITS PROMPTS NSA TO RE-ISSUE TAX PRACTITIONERS BILL OF RIGHTS

Bill of Rights Available at IRS Tax Forums

When Brian L. Thompson, CPA, a partner with Bailey & Thompson Tax & Accounting, P.A., in Arkansas, was forced by the Internal Revenue Service (IRS) to conduct a tax return audit for a client with an IRS representative on April 15, 2015, he was surprised and disappointed that this awkward timing could not be adjusted to a date other than the IRS tax filing deadline.

So imagine his shock when a similar situation happened again this year. Tax returns for two individual clients and their three related business were audited, this time in January. The IRS auditor finished the field work in February, and audit reports were due by mid-March. But March turned into April, and on April 3 Thompson received audit reports with comments due by April 8. Some adjustments needed to be made to the reports, and the auditor finally provided an updated report on April 7 with an April 18 due date for comments.

“This is exactly the type of problem we often face with the IRS, and it could be avoided so easily if the IRS simply recognized that early April is the busiest time of the year for tax preparers,” says Thompson, who is also Second Vice President of the National Society of Accountants (NSA). “And ironically, it’s because of the tax deadline that they set! So it seems that common sense would dictate that any other time of the year would be better to close out an audit.”

To deal with this and other challenges tax preparers face with the IRS, NSA last year issued a “[Tax Practitioners Bill of Rights](#).”

NSA hopes the Bill of Rights will establish timely enactment of tax laws and regulations and reasonable levels of IRS service for tax practitioners, who file 60 percent of the tax returns received by the IRS each year.

The NSA Tax Practitioners Bill of Rights includes the following:

1. THE RIGHT TO HAVE TAX LAWS AND RULES PASSED IN A TIMELY MANNER, INCLUDING:

- The right to have tax laws affecting the current tax year enacted no later than September 1 of that year.
- The right to have IRS forms reflecting any new tax laws for the current year available no later than October 1 of that year.

2. THE RIGHT TO QUALITY SERVICE FROM THE IRS, INCLUDING:

- The right to have telephone calls answered within 15 minutes, on a practitioner-only hotline, staffed by competent knowledgeable employees.
- The right to have taxpayer correspondence answered within 20 days.
- The right to have any collection action on the taxpayer’s account frozen while the IRS is considering a taxpayer’s timely filed response to IRS collection activity.
- The right to have one IRS representative deal with a tax issue from start to finish until the issue is resolved.
- The right to request a supervisor be involved in resolving a matter if the initiating IRS representative is unwilling or unable to resolve an issue.
- The right for practitioners with Practitioner Tax Identification Numbers (PTINs) to communicate electronically with the IRS on taxpayer matters in a secure manner.

3. THE RIGHT TO PRACTICE WITHOUT UNDUE IRS DEMANDS DURING TAX FILING SEASON, INCLUDING:

- The right to have an IRS audit moratorium during the three weeks immediately before major tax deadlines such as March 15, April 15, September 15, October 15 of each year.



Continued on the following page

- The right to have an IRS moratorium on collection actions or collection information requests during the three weeks immediately before major tax deadlines such as March 15, April 15, September 15, October 15 of each year.
- The right to have an IRS moratorium on planned software maintenance and computer downtime periods during the three weeks immediately before major tax deadlines such as March 15, April 15, September 15, October 15 of each year.

NSA issued the Tax Practitioners Bill of Rights at a time when the U.S. House of Representatives Appropriations Committee Financial Services and General Government Subcommittee voted to cut the IRS budget by \$838 million (7.7 percent), continuing a multi-year decline in IRS funding. The funding situation has not improved since then.

NSA Executive Vice President John Ams says, “It’s ironic that the IRS has time to conduct tax audits during the height of tax season, yet tax practitioners cannot get timely responses from the IRS for questions we pose on behalf of our clients because the IRS cannot afford the staff it needs to answer the phones.”

NSA will highlight and distribute the Tax Practitioners Bill of Rights at several upcoming IRS Tax Forums this year in an effort to move forward on these proposed rights. NSA has also established an online petition for tax practitioners to sign to express support for the Tax Practitioners Bill of Rights at www.ipetitions.com/petition/nsa-bill.

The IRS already has a [Taxpayer Bill of Rights](#), but Ams notes that this does not address the many challenges that tax practitioners face when preparing returns for the 60 percent of U.S. taxpayers who hire them to prepare their tax returns.

NEW NSA 2016-2017 INCOME AND FEES SURVEY

As a valued NSA member, we are asking you to participate in NSA’s 2016-2017 Income and Fees Survey. This important survey is a study of accounting and tax practices across the nation and the results will be made available, at no cost, to NSA members.

Soon you will be receiving an email with a link to the survey. Please take the time to complete the Income and Fees Survey and submit it by September 9.

The Income and Fees Survey, an exclusive NSA member benefit, will study and report on:

- what and how practitioners charge for different accounting, tax, and financial planning services,
- employee compensation and benefits,
- business mix,
- operating expenses,
- succession planning, and much more

The survey will provide a breakdown of responses by firm demographics including size of community, size of firm, gross and net revenue and location. When the Income and Fees Survey results are published, it will provide NSA members with valuable benchmarking information.

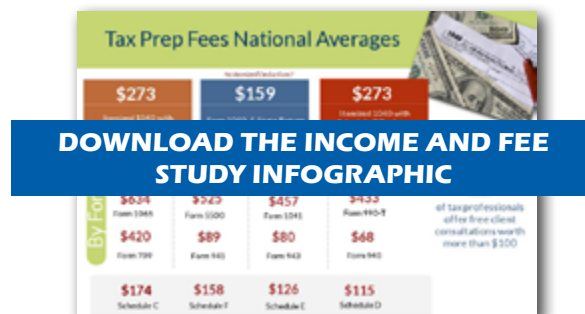
This is a report and information NSA members really want and need. Your timely response will ensure NSA can

produce and develop this important member benefit to our members.

It is particularly important that you take the time to complete it thoroughly and accurately since it is only being sent to NSA members. The survey is being conducted by Association Research, Inc., a firm that works exclusively with associations and guarantees that all responses will remain completely confidential.

Complete the survey with your contact information and we’ll enter your name into a drawing for an iPad Air 2, and email you a \$25 NSA e-certificate which you can redeem toward NSA ConnectEd webinar.

This is a report and information NSA members really want and need. Your timely response will ensure NSA can produce and develop this important member benefit to our members.



NATIONAL SOCIETY OF ACCOUNTANTS ANNOUNCES 2016 SCHOLARSHIP WINNERS

A total of 32 students have earned scholarships from the National Society of Accountants (NSA) Scholarship Foundation. Together, they will receive \$35,300 in scholarship awards.

The Foundation has provided more than \$1 million since 1969 to deserving undergraduate and graduate students who are committed to pursuing a career in accounting, helping to develop more qualified young accountants.

The scholarships range from \$500 - \$2,050. Recipients were selected on the basis of an overall outstanding academic record, demonstrated leadership and participation in school and community activities, honors, work experience, stated goals and aspirations, and financial need.

“Every year we are impressed with the ability and enthusiasm of our scholarship applicants, and this year is no exception,” explains NSA Scholarship Foundation President Sharon E. Cook, EA, ABA, ATA, ATP, ARA “We are pleased to support the best of the best of this outstanding group. They will help ensure that our profession continues to grow and provide high-quality accounting and tax services to individuals and businesses.”

The 2016 scholarship recipients are listed below with their universities, the NSA Affiliated Organizations or the named scholarships that provided funding, and the amount of each scholarship:

Congratulations to the following 2014 scholarship recipients:



Rana Abushamsiyeh

Louisiana State University - Baton Rouge
Louisiana Society of Independent Accountants: \$500

Michelle Berger

Tulane University
Louisiana Society of Independent Accountants: \$500

Elianna Chroniger

Houghton College
New York Society of Independent Accountants: \$750

Hannah Chu

California State University-Sacramento
California Society of Tax Consultants: \$1,000

Kelly Crotts

Southern New Hampshire University
New Hampshire Society of Accountants: \$1,000

Miranda Curtis

University of Missouri-Columbia
Missouri Society of Accountants: \$1,000

Amy Dill

Liberty University
NSA Sager Award: \$1,000

Morgan Gammon

University of Missouri-Columbia
Missouri Society of Accountants: \$1,000

Olivia Grimaud

Walla Walla University
Washington Association of Accountants: \$2,050

Dillon Groves

Ouachita Baptist University
Arkansas Society of Accountants: \$1,000

Christal Hall

Washington State University
Washington Association of Accountants: \$2,050

Anna Hauer

University of Wisconsin-Madison
Wisconsin Association of Accountants: \$500

Elizabeth Hudy
University of San Diego NSA Scholarship
Arizona Association of Accounting and
Tax Professionals: \$1,000

Wassiliane Jenkins
University of Alaska Anchorage
Alaska Society of Independent Accountants: \$500

Zhishan Liang
Miami Dade College
Florida Society of Accounting & Tax Professionals: \$500

Alyssa Norton
Bentley University
Stanley H. Stearman Award: \$2,000

Caitlin Poteet
University of North Carolina at Asheville
North Carolina Society of Accountants: \$1,300

Bradlee Rogers
Radford University
National Society of Accountants: \$1,000

Andrew Roluffs
Oregon State University
Oregon Association of Independent Accountants: \$1,000

Michelle Sasaoka
Grand Canyon University
Arizona Society of Practicing Accountants: \$2,000

Bethany Scheerer
University of Maryland-College Park
National Society of Accountants: \$1,000

Lauren Schmidt
Doane College
Nebraska Society of Independent Accountants: \$1,000

Kiki Smith
University of Colorado Denver
Public Accountants Society of Colorado: \$1,000

Paige Steffens
University of Wisconsin-Milwaukee
Wisconsin Association of Accountants
Southeast Chapter: \$500

Ashlee Sutterfield
Arkansas State University
Ronny Woods Memorial Award: \$1,000

Emmanuel Talley
University of Alabama at Birmingham
Alabama Association of Accountants and
Tax Preparers: \$1,550

Andres Villalobos
University of Central Florida
Florida Society of Accounting & Tax Professionals: \$500

Rochelle White
Greenville College
Independent Accountants Association of Illinois: \$2,000

Kayla Williams
University of Wisconsin-Whitewater
Wisconsin Association of Accountants: \$500

Kendall Williams
Alabama State University
Alabama Association of Accountants and
Tax Preparers: \$1,550

Torrey Yost
Western Washington University
Washington Association of Accountants: \$2,050

Zeke Zabinski
Babson College
Pennsylvania Society of Tax and
Accounting Professionals: \$1,000

To learn more about the NSA Scholarship Foundation program or to make contributions, visit www.nsacct.org/scholarships.
The next window to apply for scholarships is January-March 2017.



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

Tax Tips

In this issue, we feature four commonly asked questions and topic areas posed to the NSA Tax Help Desk. All Active and Life NSA members can have five federal tax questions answered for free each year. For more information on the NSA Tax Help Desk and how to submit a question, visit <http://www.nsacct.org/taxhelpdesk>.

Q: What happens upon the death of a taxpayer, when that taxpayer owns investment assets such as an annuity or an installment sales contract? Do these assets get a stepped-up basis under IRC Sec 1014 – like other investments such as real estate or a stock?

A: Unfortunately, no. There are certain assets that the beneficiaries of a decedents' estate will “step into the shoes” of the decedent and to recognize the income from the investment asset as the decedent would have had they not passed.

This tax concept is known as “income in respect of a decedent” and is governed under IRC Sec 691. This income or IRD income is taxed to the estate or the decedents' beneficiaries without any benefit of the stepped-up basis rules of IRC Sec 1014.

The items of IRD under Section 691 cover assets including retirement plan distributions and IRA accounts, as well as the annuity contracts, installment sales contracts, trade or business income or farming income from decedents' activities prior to death, or that check from the decedents' employer for accrued vacation pay or sick time.

The income from this kind of inheritance will maintain the character of what it was to the decedent, had they not passed-away; so the annuity or retirement plan would generate ordinary income and the installment sales contract, maybe some capital gain.

There has been a lot of confusion and concern stemming from the changes in health care benefits for S-Corporation shareholders' and the use of health reimbursement arrangements or HRAs.

Q: Can an S-Corporation shareholder still pay for health insurance outside the corporate entity and be reimbursed by the same S-Corporation without violating the compliance provisions under the Affordable Care Act (ACA)?

A: This particular tax question and its answer goes back to 2013 and IRS Notice 2013-54. This particular IRS Notice, amongst other items, eliminated the tax benefits of the health reimbursement arrangement for S-Corporations with basically more than one (1) employee, in most cases - the owner/employee. There have been some delays – notably the IRS Notice 2015-17, which basically postponed any penalties and violations of this particular provision through calendar year 2015. That allowed S-Corporations to continue to use the provision of IRS Notice 2008-1 and reimburse for health insurance costs paid for outside the corporate entity by S-Corporation owners and employees. The ability to exclude this reimbursement from the income of the employee and to use this same reimbursement for the S-Corporation owner/ employee (the 2% shareholder rule) as self-employed health insurance under IRC Sec 162(l).

The provisions of IRS Notice 2013-54, which are now in effect have pretty much eliminated the use of HRA for S-Corporation with more than one (1) employee. The S-Corporation could still have a medical reimbursement plan for items like dental and vision expenses – but not for traditional health insurance.

The S-Corporation could still reimburse for the S-Corporation (100%) shareholder covering themselves and any family employees such as a spouse or their children, without violating the “less than two (2) employee” rule of IRS Notice 2013-54. But that is it, if the S-Corporation even has one other unrelated employee, the entity could not provide health insurance through a HRA type plan. The company's options would be a full blown ACA compliant health insurance premium plan or the employer could offer to pay some additional compensation to help employees with their own health insurance expenses. But the additional compensation or salary can have no ties or conditions to health insurance or the employer would be right back into some trouble or problems with the penalties under ACA and health care reform.

A common question that crosses the Tax Help Desk involves the filing of the Form 1041 for a trust or a decedents' estate

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Tax Tips

and the tax treatment of capital gains.

Q: Does capital gain not pass-thru to the estate or trust beneficiary? Why can't the capital gain from the sale of property or stock within the trust or estate be passed-thru on the Schedule K-1 to the beneficiaries?

A: The basic definition of "distributable net income" or DNI does not include capital gain income – so by strict definition it is not distributable, absent the final year of the estate or trust. The final year exception is the most common exception to this no distribution rule for capital gain income, but there are a few others.

When you look to the actual form, the Form 1041, Page 2, Schedule B, Line 6 – the capital gain or loss within the trust or estate tax return is backed-out or adjusted from the calculation of DNI and is therefore left within the trust or estate tax return to be taxed at the Form 1041 level. This whole tax concept is covered by IRC Sec 643(a)(3). So absent a few exceptions and the final tax return – a trust or estate's capital gains cannot be distributed and your tax software, will follow this rules unless you override the distributable net income figure and change the results of the natural calculations in Schedule B of the Form 1041.

The only other exceptions to this rule that capital gains are not includable in DNI is if the terms of the trust instrument, the trust document defines capital gains as income, rather than as principal, for purposes of DNI. There are also some provisions under state law where this difference or distinction can be made with how capital gains are defined.

Q: In various formats and situations the issue of who is entitled to mortgage interest deductions and/or property tax deductions on various types of real estate and ownership combinations comes up. The underlying question as to who is entitled to the deduction shows up in so many questions that cross the Tax Help Desk we thought we would address a few points.

A: The general rule of taxation when it comes to deductions like this tied to real estate is that first, you have to make the payment. You have to be the individual cutting the check and making the payment on the liability. The second part of the equation that makes up the tax deduction is that generally you have to be the one liable for the payment. This typically means that in dealing with real estate and property taxes, you generally need to be on title. And then with the mortgage interest side of the typical deductions associated with buildings you need to be on the mortgage on the note that secured the property's purchase. It is generally these two (2) components that need to be satisfied in order to support a tax deduction.

However, as with so many tax provisions and tax deductions, there are exceptions to the general rules. And there are a series of tax cases and rulings that have proven beneficial to taxpayers' arguing for write-offs when they have satisfied the payment side of the equation, but not the ownership, title or liability side of the two (2) components.

What the courts have sided with the taxpayers on is a concept known as equitable ownership.

This is a test or a tax position where the taxpayer has proven that they possess the "burdens and benefits" of ownership. This test or position in the courts have then allowed the taxpayer—without physical title to the property or being physically named on the mortgage—to claim the benefits of the tax deductions for the payment of property taxes and mortgage interest. This argument or tax position have allowed taxpayers' to claim these deductions without all of the traditional requirements. They have won in the courts with the equitable ownership argument.

This is an interesting tax situation and the scenarios that can be applied to these rules are numerous and apply to many tax situations that are posed to the Tax Help Desk.

NSA Active and Associate members get five federal tax questions researched and answered FREE each year. For more information and to submit a question, log on and go to <http://www.nsacct.org/taxhelpdesk>.



A wide-angle photograph of the U.S. Capitol building in Washington, D.C., featuring its iconic dome and neoclassical architecture under a blue sky with scattered white clouds. The building is surrounded by green lawns and trees.

Legislative Link

Shirley Buchanan Represents National Society of Accountants at IRS EITC Summit



Shirley Buchanan of Buchanan's Financial & Tax Services, Inc., in Suitland, Maryland, represented the National Society of Accountants (NSA) at the Internal Revenue Service (IRS) Earned Income Tax Credit (EITC) Summit in Washington, DC on June 29-30, 2016.

The summit was hosted by IRS Commissioner John Koskinen, who convened the summit to discuss three key topics:

- Ways to minimize errors in filing EITC claims and reduce overclaims with the program.
- Ways to maximize participation in the EITC program for the working poor.
- Ways to better administer the EITC program and identify best practices from other state and federal agencies with benefit program responsibilities.

Forty people from nonprofit and for-profit organizations were invited to participate in the two-day summit. It was co-chaired by Ken Corbin, the IRS Director, Return Integrity and Compliance Services and Debra Holland, Commissioner of the IRS Services and Enforcement Wage and Investment Division.

"The forum was effective in letting tax preparers know what the IRS needs for this program and offering us an opportunity to give suggestions," Buchanan said. "I suggested asking employers to furnish EITC information with W-2 forms, which could serve as a reminder to low-income employees below the filing requirement to apply for the credit. Colleges and universities are also great sources to disseminate EITC information."

The EITC program, which generates 2.7 million claims per year, is designed to help lift poor people out of poverty by providing tax credits based on their level of earned income, number of dependents, and other factors.

To reduce EITC program overclaims, solutions such as requiring that W-2 and 1099 forms be submitted by January 30 and delaying EITC payments until mid-February were discussed. This would allow duplicate claims (such as those sometimes submitted by two people claiming credit for the same dependent child) to be detected before payments are made. A pre-certification program for taxpayers eligible for EITC payments was also mentioned.

"Many homeless people who do sporadic work may be eligible for the program, but it is challenging to track them," Buchanan observed. She said the IRS trying to find ways to reach them and also help prevent people from becoming homeless by including them in the EITC program.

The National Disability Institute participated in the summit and offered suggestions on how to more effectively communicate the program to disable individuals. For example, the group noted that the availability of additional deaf tax preparers, that could help deaf people file the returns needed for them to get benefits they are entitled to.

The IRS encouraged people to send any suggestions about the EITC program to eitcsummit@irs.gov.



Legislative Link

NSA Leaders to Meet with IRS Commissioner John Koskinen

August 10 discussion will focus on improving services, reducing audit requests during tax season and increasing IRS budget appropriations.

Top leaders of the National Society of Accountants (NSA) will meet with Internal Revenue Service (IRS) Commissioner John Koskinen on August 10 to discuss a range of topics relating to the services the IRS provides to tax preparers.

NSA President Kathy Hettick, EA, ABA, ATP; NSA First Vice President Al Giovetti, CPA, ABA, ATA, ARA; NSA Second Vice President Brian L. Thompson, CPA; NSA Secretary-Treasurer Curtis Banks Lee, Jr., ATA, ATP, and NSA Executive Vice President John Ams will conduct the meeting.

Key topics for the meeting include:

1. Upgrades to IRS phone support and service.
2. Audits and correspondence audits, including limiting such audits during tax season.
3. Suggestions to improve the power of attorney process for tax professionals.
4. Suggestions to improve electronic tax filing services.
5. What NSA can do to support increased IRS budget appropriations.

Many of these issues were highlighted in 2015 when NSA issued its [Tax Practitioners Bill of Rights](#) that calls on Congress and the IRS to do several things. The rights include passing and implementing tax laws in a timely manner, providing prompt and consistent response to questions by phone and mail in a secure manner with a single IRS representative in charge of reviewing each specific tax issue, and reducing the demands the IRS places on tax preparers during tax season, especially involving audits.

“Fortunately, we have a Commissioner who knows how to partner with organizations and professionals and who truly works to improve tax administration for taxpayers as well as tax professionals,” Hettick said. “He is open to ideas, and listens

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NSA Officers met with Commissioner Koskinen on November 18, 2015.

From left to right, Brian Thompson, NSA 2nd Vice President; Curtis Lee, NSA Secretary Treasurer; Kathy Hettick, NSA President; Commissioner Koskinen, NSA Executive Vice President, John Ams; and NSA 1st Vice President, Alfred Giovetti.

NSA Gear Up
1040 Individual Tax Seminar
BACK BY POPULAR DEMAND!

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16 HOURS
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Legislative Link

when people speak. We brought forward the Tax Practitioners Bill of Rights last Fall in our meeting with the Commissioner, and it was well received and understood.

“This upcoming meeting is an opportunity for NSA to continue to strengthen this relationship which in turn strengthens the ability for our members and tax professionals to do the best job possible for their clients. Communication is the key to a successful and manageable tax system. With our overwhelmingly complicated tax code, we must always be asking the IRS, ‘What can you do for us? What can we do for you?’ This is how we can build a true partnership.”

Thompson recounted two instances this year and last year when the IRS required him to respond to audit requests late in the tax filing season, including one request to conduct a tax return audit for a client with an IRS representative on April 15, 2015. These are just two examples of the types of issues that tax practitioners across the nation face on a regular basis.

“We hope that the Commissioner listen carefully to our concerns in this area and reduce this onerous burden on tax preparers during tax season,” Thompson noted.

“NSA has consistently done all we can to support the IRS in the Congressional budgeting process to try to ensure that the agency has the resources it needs to provide services to tax preparers and the public,” said NSA Executive Vice President John Ams. “We have also offered many specific suggestions to the IRS itself on how it can improve the essential services we rely on so heavily throughout the year. All these issues will be on the table at our meeting and we look forward to a very productive discussion.”

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.

