

MAIN STREET PRACTITIONER

The Magazine for Tax and Accounting Professionals

An Interview with
NSA's 2017-2018
President Brian
Thompson

It's Time to Think
about Rainmaking!

ORGANIZING THE REAL
ESTATE CLIENT

NSA
National Society of Accountants

**PRESIDENT'S
MESSAGE**



**TAXATION OF SOCIAL
SECURITY BENEFITS**



**THE ACCOUNTANT'S
ROLE IN COOPERATIVE
DIVORCE**



Main Street Practitioner

Publisher
National Society of Accountants

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Vice President and Director,
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Jodi L. Goldberg

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Diane Griffin
dgriffin@associationvision.com

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PRESIDENT'S MESSAGE



Brian L. Thompson, CPA,
ABA, ATA, ARA
NSA President, 2017-2018

A Journey with the NSA

I would like to express my gratitude to the members of the National Society of Accountants for electing me as President of this society.

It's difficult for me to imagine that my journey with NSA began as a student member while in college in the 90's working to obtain an accounting degree. One of NSA's past Presidents once said, "You never know where life's journey will take you." Truer words could not be spoken. Never in my dreams did I think an accounting degree would lead to where I am today. I am truly humbled by the faith and trust you have placed in me and certainly do not take this opportunity for granted.

I'm excited to be working with an amazing team of devoted staff, dedicated board members, and an awesome group of volunteers that graciously serve on our committees. No one person can do everything and I'm thankful for these talented people and appreciate their willingness to serve and commitment to NSA.

This will be very busy year with a set of new challenges and opportunities. I've challenged our committees and staff with several initiatives. Some of these include items such as:

- Expanding member benefits
- Increasing the amount of accounting content in our publications
- Producing comments to Congress on tax policy
- Reviewing the topics and content of our webinars to insure we are meeting the needs of our members
- Creating another wonderful program for the Leadership Networking Conference and Legislative Strategy Conference
- Developing a fantastic program for next year's annual convention in Minneapolis, Minnesota.

One of the greatest member benefits that some take for granted is the work that NSA does to protect your rights to practice. As such, we will continue to monitor and work with the Internal Revenue Service, NASBA, the AICPA, and other national and state organizations that have an impact on our members.

I would like to thank you again for electing me and the opportunity to lead NSA. I'm excited and look forward to a wonderful year.

A handwritten signature in black ink that reads "Brian L. Thompson". The signature is written in a cursive, flowing style.

Brian L. Thompson
President

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An Interview with NSA's 2017-2018 President Brian Thompson

NSA's 2017-2018 President, Brian Thompson shares his thoughts on the challenges and changes in the accounting world.

MSP Congratulations on your new position as NSA's President. Do you have any specific goals for the organization that you'd like to set into motion during your term?

BT There are several goals we will be working toward this year. One goal is to work to increase the amount of accounting related information we provide to members. NSA does an exceptional job at providing a wealth of helpful information and guidance on tax related issues. While there are a vast number of changes in the taxation, our members need to be aware of issues that may affect the accounting side of your practice. Of course, we'll continue to do an excellent job at keeping everyone informed on issues related to taxation. Another goal for the year will be to evaluate our member benefits to see if there are additional benefits we can add that would be helpful to our members. I am thankful to have so many talented people serving NSA on committees this year which will be working on these projects as well as many others.

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MSP Do you see any new challenges for accountants and tax preparers on the horizon?

BT We seem to face challenges every day. While security may not be a new challenge, it is one that has escalated over the last year and will likely continue to be an issue for each of us. I sure most of us have received emails and warnings from the IRS about security threats against tax preparers. A couple of years ago a local news reporter came out to our firm to interview me for a news piece about tax return identity theft. This was at a time when data from some very large companies had been breached and had caused some major concerns for the public. I recall telling the reporter during that interview that we had to be very cautious about securing our data as an accounting firm because we, as tax preparers, had basically all of the information that a hacker needed to steal someone's identity. Large companies typically have substantial resources to help them protect their sensitive data. However, as Target and Home Depot can attest, hackers still found a way to breach their security. In our industry, tax preparation offices are usually small in comparison to the corporate world so we certainly have to be mindful and take precautions to try to make sure our computers and client information is secure. This increased security threat is likely not going away anytime soon. In addition, these threats are causing many of us to reevaluate how we do business, including how we communicate with clients which is another challenge.

Another issue I see for small practitioners is the challenge of trying to recruit or attract younger staff people. Trying to find

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young staff that is willing to work in a small firm and work long hours during tax filing season is a daunting task. This is especially problematic for our more senior members who would like to retire someday.

MSP How can NSA help our members and other industry professionals meet them head-on?

BT There is power in having information or knowledge of what is going on in the industry. While NSA may not have the means to send someone to your office to review your computer security, we have the resources to keep members informed about security issues members are facing. NSA is blessed to have a network of accountants and tax preparers all across the country that use Tax Talk. Everyday members are helping other members on Tax Talk with issues regarding clients, the IRS, state, and accounting problems.

MSP Are there NSA member benefits that you believe are especially useful in this challenging environment?

BT NSA has the several member benefits that are available to help our members stay informed about challenges in the industry. As challenges arise, look for informative articles in our newsletter, the NSA Practice Advisor, as well as the weekly and biweekly emails with the latest industry alerts. As I mentioned earlier, Tax Talk is an excellent member benefit where members share information about the issues they're facing and receive excellent feedback from knowledgeable members who may have already faced the same issues. What a valuable benefit to be able to talk with someone who has been there and done that.

MSP Brian, tell us a little about yourself. What inspired you to become an accountant? Where did you study? Are there accounting credentials that you feel are helpful for young professionals to consider as they grow in the profession?

BT Accounting is actually my second occupation. I received my first college degree in Electronic Engineering Technology. After graduating college the first time, I took a job with a local company repairing office equipment such as computers, copiers, and calculators. I spent five years in the field as a service technician and was on a fast track to management. However, my plans were altered when the company I worked for suddenly filed bankruptcy as a result of some unethical behavior from our sister office in another part of the state. The service department I worked for was unexpectedly merged with another company across town and suddenly my management plans were significantly changed. My uncle, who is now my business partner, had an accounting firm. He came to me and suggested that I come to work for him and consider going back to college to get my accounting degree and then sit for the CPA exam. I remember that being a very tough decision because it would mean leaving a field I really enjoyed. I believe it took me about six months to finally decide and I left the field of electronics. I went back to the college and received a bachelor's degree in accounting from the University of Arkansas and then passed all four parts of the CPA exam. That was 25 years ago and looking back one of the best decisions I could have made.

MSP Your practice is in Little Rock, Arkansas. What sort of clients do you have? Is there any particular niche you prefer to focus on? Have you seen changes over the years, both positive and negative?

BT Our firm has an office in Little Rock and also a small office in northwest Arkansas. We offer services in individual and business tax preparation, along with various accounting and payroll services. Our business clients are mostly small businesses in the service, retail industries along with a few manufacturing clients. If we have a niche, it's working with small businesses. We seem to work a lot with brand new startup companies.

It's probably no surprise that one of the biggest areas of change over the years have been in technology. Over the last 25 years,

Continued on the following page

I've went from printing clients accounting reports on a dot matrix printer to now posting reports on secure client portals. I remember backing up client data on separate floppy disks. Now we have cloud based computers that use incremental backups every 10-15 minutes. Clients once had to drive to our office to drop off and pick up accounting, tax, and payroll documents. Today, we import client transactions from banks and accounting systems and we are able to file most payroll tax returns along with payments online. Clients are able to upload information to portals, email, or fax documents which is used to prepare their tax return all without stepping a foot in the office. Fortunately advances in technology allow us to provide services much faster. Unfortunately, we are exposed to much more risk of penalties because we have been put in the position of making tax payments for clients via EFTPS and state online tax and payment systems. As a result, it has been very important to have a good system of internal control.

MSP What are the things that keep you going and motivated? Hobbies?

BT There are couple of hobbies that I enjoy that help keep me grounded. I appreciate music and enjoy playing the guitar. I've had the privilege of playing various instruments in church bands over the last 30 plus years. Currently, I play bass guitar for my church praise band. For me, music is therapeutic and relaxing. Another hobby that I enjoy is building remote control planes and quadcopters. It's very satisfying to go to my work bench at home armed with a soldering iron, some motors, electronics, and hardware and work to create things that can fly. Well to be quite honest, in some cases the planes I build may not fly long. However, I find the process of building them and getting them to the runway as thrilling as the flight, regardless how short it may be.

MSP Is there anything you'd like to share with your fellow NSA members?

BT I feel that NSA has played a large part in the reason for the success in my own firm. When I think back, there are many reasons this success. Looking back I had several people that I considered mentors that encouraged me to get involved and serve on an NSA committee. I probably didn't realize this at the time, but volunteering to serve gave me the fortunate side benefit of observing and getting to work with some very smart people in our industry along the way. Volunteering given me the opportunity to both network and learn from the best, as well as met some incredible people that I'm happy to call friends. I would like to encourage all of our members, especially our younger members to get involved. NSA needs your fresh ideas and your unique perspective. The benefits you receive from volunteering will more than make up for the time you invest in NSA.



ORGANIZING THE REAL ESTATE CLIENT

J. Michael Pusey

Real estate is important, valuable, and it isn't going anywhere, so it tends to be highly regulated and much the focus of taxing authorities.

In organizing our real estate clients, we may initially think of listing the due date of the federal tax return, but there are myriad financial matters and taxes affecting our real estate clients.

The topic quickly proliferates into such matters as state and local compliance which is notoriously not uniform.

General Perspective

In helping the client understand the complications of their realty investments and how to better organize the work involved, a topic that soon surfaces is the level of the accountant's participation. What work is most efficiently done internally and how much should be the focus of the outside accountant?

A side benefit to organizing the realty client is that it tends to show where the accountant can help, which is to say it also tends to generate work for the accountant.

Worksheets with due dates, ID numbers, etc. can be designed to fit the client's particular circumstances. Our focus isn't on particular software or tools. Organizing the worksheet to help a particular realty client may be a bit of an organizational task in itself, but what we'll discuss here can be done on spreadsheets.

For illustration purposes, we'll generally assume a perspective of married couple in California with say fifty properties, and an occasional partner or small group of recurring investors. Our organizational tips below may involve some redundancies.

It is not uncommon for the accountant to get very involved with their real estate clients, even to the point that they join in the ventures of their client, or vice versa. The accountant may have the realty expertise and relationships such that clients may want to partner in the realty ventures of the accountant. The legalities and related issues down that path are not our focus. Our focus is the work generated and how best to organize it.

Entities

The choices are generally corporation, S corporation, partnership, LLC, or only direct ownership by either or both spouses (or their living trust). Each of these may present its own organizational challenges.

Keep in mind that in community property states, both halves of realty step up to value at the date of death upon the death

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of the predeceasing spouse, so converting separate property (say inherited property) to community property is often an issue for discussion, with its pluses and negatives (e.g., what if there is divorce?). One of the up-front discussion issues is whether the current ownership structure is advisable.

In general, we see much use of the husband-wife LLC. The proliferation of entities tends to enhance the limited liability aspects: e.g., eight properties in one LLC tends to put at risk many properties if there's an uninsured accident, a law suit involving one property. How whether to include one or two or many properties per LLC is generally a topic for discussion with the attorney and insurance professional. The proliferation of entities tends to increase the work, tax reporting, and, e.g., in California, the \$800 annual minimum tax on LLCs.

In a community property state, the couple may qualify to disregard the LLC. ((Rev. Proc. 2002-69, 2002-2 CB 831.)) This has the advantage of simplicity but some also believe that proliferating the reporting of the entities makes it more work for the IRS and that this can have its advantages.

If the realty operation is a business, see also "Election for Married Couples Unincorporated Businesses," discussion of the "qualified joint venture" concept. ((<https://www.irs.gov/businesses/small-businesses-self-employed/election-for-married-couples-unincorporated-businesses>. See also "Entities, Question : Can a husband and wife operate a business as a sole proprietorship or do they need to be a partnership? <https://www.irs.gov/help-resources/tools-faqs/faqs-for-individuals/frequently-asked-tax-questions-answers/small-business-self-employed-other-business/entities/entities>))

Organizational tips: Complete list of each entity, legal name and any DBA; tax ID# obtained or application to be filed; estimated tax due dates – federal, state and local; return due dates – federal, state and local; location of tax returns – federal, state and local income reporting as well as, e.g., document fees relating to an LLC; location of acquisition documents, key points summarizing the acquisition documents, including basis information; listing by address of properties in each entity with legal description, date of acquisition; transfers of partnership interests or death of a partner should be documented if basis is affected as a result of Sections 734, 743, and 754.

Reporting to other investors will involve its own set of organizational issues.

Properties

To a surprising degree, the accountant may find properties "moving around" even among the entities controlled by the same taxpayer(s), which can have consequences in such areas as property taxes. There should be a system in place to bring to the (internal or external) accountant's attention new properties, properties disposed of by sale or like-kind exchange, or any transfer of properties among entities controlled by the taxpayer. The procedures should, but often do not, involve first asking the accountant or other adviser whether there may be unexpected consequences to any restructuring.

Organizational tips: Listing by address of properties in each entity plus legal description, date of acquisition and any acquisition documents as well as any documents transferring the property to an entity; depreciation records from inception or location of tax returns with depreciation details; location of returns and sales/1031 documents regarding sale/transfer of a particular property.

Income Tax Files and General Accounting

It can be helpful to have an "income tax trail" of where each property's income is reported, whether Form 1040, partnership return, trusts, estates, etc., with notations of the years and a notation of the date of acquisition and any transfers by sale, exchange or gift.

Realty clients may think they remember all the details, and we're often surprised at how much information realty clients carry around in the heads (the topic is wrought with details), but there's advantages to summarizing the client's realty income in a way that is both uniform and simplifying.

A uniform chart of accounts for all properties is recommended, although one of the challenges is being meaningful amidst

Continued on the following page

disparate circumstances; e.g., summarizing commercial and residential properties side-by-side in a helpful way. Generally useful is a columnar spreadsheet with properties at the top and perhaps summarizing columns by entity (e.g., when there are various properties in one partnership), and a column summarizing the percentage ownership in the particular properties, as well as total income and expense.

Our focus here is internal usefulness so despite all the GAAP accounting issues that could be addressed, we note that often the most useful and practical is a just-tax-figures worksheet. It can be useful for tax planning purposes but our main focus is helping the client understand in a timely and recurring manner how they are doing, with details as well as totals. Comparable figures, changes, percentages, etc. are part of the design aspects. There is no one-size-fits all solution here. The client generally has to participate and share what is most useful to their understanding.

Organizational tips: Location of tax records by year (returns and support), location of accounting records and worksheet files by year, cost segregation studies (what's realty and what's not and costs allocated to different depreciation categories), loan files from inception by property, including amortization schedules and yearly reports by lenders to client and IRS; location of insurance documents, statute of limitations files – federal, state and local; location of examination files – federal, state and local; information needed in the event of death or incapacity – names and contact information of attorney, CPA, insurance agent, personal banker, successor owners; location of will, living trust, powers of attorney, special instructions.

Car and travel logs are important if the client is hands-on because the nature of the work is inherently one of multiple locations.

Time records and other documentation necessary to refute passive loss issues are particularly important even for realty clients who are conspicuously active.

Payroll Taxes

The realty industry is known for problems in this area. IRS challenges as to who is an employee vs. independent contractor are common.

We've known taxing authorities at work sites asking people who they work for. One successful tax engagement of the author was responding to such query where the worker said falsely that he was employed by my client, who was actually the owner-investor, who did have one employee frequently at the site looking after the work progress, but the construction workers were independent or otherwise employed. The result was an employment tax audit that looked into numerous entities of my client but with no adjustments. The taxing authorities in employment tax audits do tend to cover many if not all the entities controlled by the same parties if an audit gets started, and it may get started by one construction site worker making a false statement.

Organizational tips: Location of payroll tax files and correspondence by year, location of time reports, etc.; statute of limitations files may be helpful but this aspect is rarely tracked.

Property Taxes

Property tax work is surprisingly complicated. There are issues at inception and on-going; e.g., cost allocations and issues as to what is an improvement that may or may not increase the property tax valuation. There are technical tax issues. For example, in Los Angeles, it is possible for spousal transfers to trigger reassessment if, say, there is a transfer from one LLC to another and the spouses have disparate ownership. There are issues that arise as an owner passes or there are changes in ownership of the entity. The rules here often look to the percentage of ownership change.

In general, allocating some resources to disputing what the property tax assessor comes up with is worth the fee to the client.

Organizational tips: Location of tax files by property by year (paperwork volume in property tax area is surprisingly large); tracking ownership, including entity ownership and changes that may require reporting to the property tax authorities; statute

Continued on the following page

of limitations files may be helpful but this aspect is rarely tracked.

In general, one also needs to organize files of the literature and reference sources pertaining to this complicated topic.

Miscellaneous

In general, one needs to understand the rules that affect the particular client. For example, a client owning a property in the next county may trigger reporting unique to that county. The reporting may involve the property, or the entity that owns the property. There may be unique organizational efforts needed in such areas as business license taxes.

As indicated, there may be reporting that is unique to the particular entity structure. For example, LLCs where the husband-wife have community property ownership may elect to report a property directly on their Form 1040 which may simplify their income tax reporting, but such election may still involve California LLC reporting.

Conclusion

The accountant or other adviser should expect to walk into a complicated environment if the client has more than a few properties.

Work with our realty clients tends to be satisfying because there are often conspicuous tax savings and organizational improvements possible.



About the Author:

J. Michael Pusey, CPA, MSA, is a National Tax Director with Rojas and Associates, CPAs, Los Angeles. He has over forty years experience in tax and finance. Mr. Pusey has written or contributed to four tax books, including an AICPA Tax Study, and a finance book. Mr. Pusey began his career with KPMG before working nine years in “national tax” for Laventhol & Horwath and Grant Thornton. He was V.P., Assistant Tax Director, Manager of Research and Planning for a NYSE financial institution prior to beginning his practice, then joining Rojas and Associates.





Reasonable S Corp Salary Theory

Jason Watson

As an accountant, there are several factors to consider when coming up with a reasonable salary in an S Corporation situation for yourself or for your clients. The IRS through [Fact Sheet 2008-25](#) released the following laundry list (last update was in 2008 when Flo Rida was singing Low... apple bottom jeans, boots with the fur, the whole club was looking at her. How time flies!)

- Training and experience.
- Duties and responsibilities.
- Time and effort devoted to the business.
- Dividend history (IRS nomenclature, really this should be shareholder distributions- however back in the day it was C corporations who later elected to be taxed an S corporation, so dividend history still have some historical merit).
- Payments to non-shareholder employees.
- Timing and manner of paying bonuses to key people.
- What comparable businesses pay for similar services.
- Compensation agreements.
- The use of a formula to determine compensation.

Clear as mud. This is the best the IRS can come up with? What is even more frustrating or perhaps embarrassing is that this list was the final draft after probably several meetings and rough drafts. Having said that, this is how our tax system operates in many ways- leave lots of wiggle room for interpretation so the law and the standards can evolve.

This list actually has two applications. Since C corporations have a high tax rate including being double-taxed, many small C corporations want to drive corporate income close to zero by paying high salaries. The IRS and the tax court will use this list to say your salary is too high as a C Corp. Conversely, S corporations want to increase corporate income by paying small salaries. The IRS and the tax court will talk out of the other side of their mouths by using this list to justify a higher salary. Yes, they get to have it both ways.

Tax Court Tests

There are two tests that tax courts have used in the past. In [Label Graphics, Inc. v. Commissioner, Tax Court Memo 1998-343](#) which was later affirmed by the 9th Circuit Court in 2000, the court came up with-

- The employee's role in the company.
- A comparison of the compensation paid to similarly situated employees in similar companies.
- The character and condition of the company.
- Whether a relationship existed between the company and employee that may permit the company to disguise nondeductible corporate distributions as deductible compensation.
- Whether the compensation was paid pursuant to a (1) structured, (2) formal, and (3) consistently applied program.

In [Brewer Quality Homes, Inc. v. Commissioner, Tax Court Memo 2003-200](#), the court re-iterated several points from another federal court case ([Owensby & Kritikos, Inc. v. Commissioner, 819 F.2d 1315 \(5th Cir. 1987\)](#))-

- The employee's qualifications.
- The nature, extent, and scope of the employee's work.
- Size and complexity of the company.
- Comparison of the employee's salary with the company's gross and net income.
- Prevailing general economic conditions.
- Comparison of salaries with distributions to stockholders.
- Compensation for comparable positions in comparable concern.
- Salary policy of the company as to all employees.
- Amount of compensation paid to the employee in previous years.

Similarly to IRS Fact Sheet 2008-25 no single factor controls. It really is a preponderance of the evidence as civil courts like to say. Tax court judges will go through these lists, depending on the case and the jurisdiction, and will apply the facts and circumstances to each of these factors, and essentially make a list of pluses or a minuses.

For example, the criterion might be "Payment to non-shareholder employees." The tax court will analyze the evidence to determine the plus or minus. Let's say the S corporation owner provides evidence that her star employee is the rainmaker and therefore the employee's salary including bonuses exceeds the S corporation shareholder. And let's also say that the tax court finds this argument to be compelling. This would be a "plus" for the S corporation owner since the criterion of "Payment to non-shareholder employees" favors the S Corp shareholder.

Continuing with this example, assume the owner had \$300,000 in net income after expenses, but only paid \$30,000 to herself as an S corporation salary. The IRS and tax court would place a "minus" next to the "A comparison of salaries paid to sales and net income" criterion as they did in [K & K Veterinary Supply, Inc. v. Commissioner \(Tax Court Memo 2013-84\)](#).

One of the resounding themes is that dividends (shareholder distributions) cannot be remuneration for services provided by the shareholder-employee. In [Spicer Accounting, Inc. v. United States, 918 F.2d 90 \(9th Cir. 1990\)](#), the shareholder claimed he was not an employee of the corporation and therefore his dividends were a return of investment and not compensation for services provided. The court disagreed, and claimed that Spicer provided substantial services to the corporation and therefore he was an employee. In turn, employees must be paid a salary, and in the case a reasonable salary as an S corporation shareholder.

Truth be told there are some philosophical issues with the reasonable salary element where your labor is the only material income-producing factor for the business. Some would argue that all the S Corp's income should then be considered wages and subjected to Social Security and Medicare taxes, because if you died the company would die. Do we see this "loophole" being re-defined and shrinking over the next several years? Yes. But at the same time, we say let it ride until we can't use it. The IRS and Congress move at glacial speeds- let's worry about next time, next time.

Having said that, there might be times where your client's business would continue without them. When the Watson CPA Group does business valuations, especially in divorce proceedings, we assign a value to goodwill. We further tease out personal goodwill and enterprise goodwill since in some jurisdictions personal goodwill is not marital property. This might seem like an odd tangent, but a similar argument can be made for a business that does not rely on the principal or owner. One great example is a financial advisor that has a small team supporting him or her- typically the fee income continues well into the future without the direct involvement of the advisor (enterprise goodwill). In this situation, an argument for a smaller salary could be warranted.

Tax Court Applications

Interestingly, the IRS is cracking down on S-Corp owners who do not pay any salary. In a recent tax court case, [Sean McAlary Ltd. Inc. v. Commissioner \(Tax Court Summary Opinion 2013-62\)](#) the IRS hired a valuation expert to determine that a real estate agent should have been paid \$100,755 salary out of his S-Corp's net income of \$231,454. Not bad. He still took home over \$130,000 in K-1 income, and avoided self-employment taxes (mainly Medicare) on that portion of his income.

Another tax court case, [Watson v. Commissioner, 668 F.3d 1008 \(8th Cir. 2012\)](#), no relation to the Watson CPA Group. In this case, Watson was an accountant in a firm he owned. He drew a salary of \$24,000 even though the firm grossed nearly \$3 million in revenue. Watson was a Certified Public Accountant with advanced degrees. The 8th Circuit Court ruled that a reasonable person would consider the dividends paid to Watson to be "remuneration for services performed" as opposed to a return on investment. W-2 versus K-1. In essence, his return on investment (K-1) was an attempted disguise for salary (W-2). As a result, Watson's dividends were reclassified as wages and the firm was assessed huge employment taxes plus penalties and interest.

Bureau of Labor Statistics

So the Tax Court and the IRS will attempt to support a reasonable salary based on your peers and colleagues. Our previous real estate agent benefited from this type of valuation. But what if the opposite was true. So, instead of earning \$231,454 and only paying out \$100,755 in salary, what if you earned \$110,000. Would you have to pay out \$100,755 in salary just because you are a real estate agent in an area where other agents earn \$100,755?

The answer is No. There are several factors that mitigate this. Perhaps you work part time. Perhaps you simply are not as good as your peers. Perhaps you focus on a different type of customer. Review the previous laundry lists, and as you go through each item ask yourself if you could safely use that to justify a lower salary than your peers- we bet you can find several instances.

Salary First, Distributions and Loans Second

Shareholders must be paid a salary before any shareholder distributions are paid out or loans are advanced to shareholders. This is a technicality. You can take shareholder distributions as an S Corp owner prior to paying a salary to yourself throughout the year. At the end of the year, however, you must have W-2 income if you received shareholder distributions.

If the business cannot afford to pay salaries, it is not necessarily required to do so. There is some gray area involving large depreciation expenses and other non-cash reductions in business income. So, if you have a pile of cash but experience a loss due to large depreciation, for example, you might still be required to pay salaries. If you believe your company won't be profitable, then we suggest deferring the S-Corp election to another tax year. Remember there are provisions allowing a late S Corp election beyond the customary 75-day limitation- take advantage of this option by delaying your election if you are unsure.

Starting Point

Great. We've gone over the [IRS Fact Sheet 2008-25](#), tax court test criteria and various other things. The problem is that it's all qualitative- warm and fuzzy stuff about plusses and minuses. Where do we start quantitatively?

One argument that we and others have made is the concept of 1/3, 1/3, 1/3-

- 1/3 paid as shareholder salary, plus
- 1/3 distributed as return on investment (distributions), plus
- 1/3 retained for company growth.

This is great starting point for a growing S corporation since most businesses need to finance growth from leftover cash after salaries and distributions. For a one-person show that is in a steady state of business, a good starting point is 40% of your net profit. So, if your net profit after expenses is \$50,000, a \$20,000 salary would be reasonable. Again this is a jumping off point. You must be able to justify the number, and this number could increase or decrease.

Using the 1/3 concept or the 40% concept is just a starting point- since we have to start somewhere, using a mathematical formula makes it easy. From there, similar to the “plus” and “minus” approach by the IRS and tax court judges, we massage this salary to be reasonable for our client’s situation.



About the Author

Jason Watson EA, CDFA, MBA, is a small business consultant specializing in LLCs and S Corporations including entity structure, self-employment taxes, health insurance issues and retirement planning. He is quick to point out that while some basics cover all situations, every business is truly unique.

He is also a financial expert witness, a Certified Divorce Financial Analyst and Financial Advisor with the One Call Capital Group, a Colorado registered investment advisor firm.

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It's Time to Think about Rainmaking!

Monika Miles

We've all been there. Busy season is behind us. We've taken some time off during the summer and refreshed our internal batteries. And now maybe we take the time to sit down and reflect on our business. During the next few months, we want to put a plan in place to grow next year's top line revenue. It's time to think about bringing in new clients or "rainmaking". And that's where we get stuck! Many of us in the accounting profession really hate to sell. We want clients to come to us because we are technically competent, do a great job and are professional. We don't want to have to advertise or brag about our technical abilities or push our services on them. If we had wanted to become salespeople or rainmakers, we'd have taken more marketing classes in college!

What does "rainmaking" even mean? Let's define it simply as generating new business for your firm. Rainmakers, then, are those who bring in such new business, often seemingly by magic because they make it look so effortless. But we all know that it's not easy, and that it does take focus and hard work. The people who make it seem effortless have developed a plan, put it into action and it produces results. But they didn't get there overnight.

What if we could think about practice development and rainmaking the way we think about other things in our accounting lives – a nice, linear and logical process that leads to measurable results? Then the thought of going out and generating additional revenue for the business might not seem so difficult. But certainly building a book of business is more complicated than that. Or is it? In building my state tax consulting business over the years, I have developed a roadmap consisting of a few key things that have been instrumental in keeping my lead generation pipeline flowing. It's a process that can be applied to any business, but tends to resonate well with professionals who need to sell services – like us! Here are five proven steps to building your own pipeline and putting rainmaking into practice:

Change your mindset. A big part of being able to grow your business and bringing in new clients is about believing that you have a good service to sell to people who need it. We didn't go to school to be marketers! So, the thought of having to market ourselves and sell our services can be daunting. As I work with professionals, they often tell me that they don't like selling or even talking much about their services because it feels pushy to them. But so much of building a pipeline is about creating and then strengthening relationships. People want to purchase services from professionals they know, like and trust. As an accountant or tax preparer, you have a unique perspective on your clients' financial lives, and you are in a position to assist them not only with tax returns, accounting or compilations and reviews, but also with ancillary services. It's not about selling to them. It's about being a trusted business partner who either has services they need or introducing them to others in your network that may be able to assist. When you change your mindset and even your verbiage from "selling" to "advising" or "partnering" it changes your attitude about the process.

Identify your target market. Who is your ideal client? Is it an individual or a business? If your practice focuses mostly on individual tax clients, do you focus mostly on high net worth individuals, small business owners, or real estate investors?

It's important to identify that target market fairly narrowly, thinking about such things as demographics (How old is your target client?), geography (Is your target client in this city, state, country?), and industry (Technology, construction, or manufacturing?) Most of us have a mix of clients, but part of the exercise in identifying your ideal client is to really focus on the types of clients you'd like more of and then to put yourself in situations where you are able to meet them and build relationships with them. Being able to paint a picture of an ideal client and to explain those characteristics to others is key in generating new client leads and building a referral base. If people can picture your ideal client then they mentally go through their client list as you're talking to see if there are some clients of theirs who you might be able to help. Or they can say "tell me more."

Put yourself in the room with your target market. Once you've identified what your ideal client looks like, you'll want to put yourself in the room with them so you can begin to build the relationships. The "room" can be a variety of places including networking events, conferences, professional associations, and charitable boards of directors or other volunteer efforts. The room can also be virtual. Engaging in blogging and social media can help to build your presence in the marketplace and allow potential clients and referral partners to learn about you and your firm at their own leisure. I find that a good mix of all of the above is the best way to get yourself out there to build your pipeline. This is where the magic happens. So much of our world has become centered around electronic communication. But this step gets you back out there one-on-one in live communication with other people. Have some fun with it. Again, so much of this is not about selling – it's about building relationships that may ultimately lead to an opportunity to share your services.

Establish your practice development goals. Accountants tend to be goal oriented people. We like a checklist! And we know the importance of putting those goals on paper. Research shows that people who put their goals in writing are nine times more likely to achieve them than those who don't. So, as you embark on building your pipeline, set your goals in writing. Include measureable milestones. For instance, your 12 month goals may include any or all of the following: join a new professional association and attend 4 of the next 5 meetings; sign up for 2 networking mixers per month; take 4 clients to lunch per month; reconnect with other professionals who serve the same target market as you do (these people are often great referral sources) – like attorneys, insurance brokers, investment advisors and bankers. Set yourself up for success. Try to set goals around things that you are likely to do. If your networking goals are too aggressive, you'll find excuses for not engaging in those activities.

Be accountable. So, if you've followed the steps above, you've changed your mindset about selling professional services, identified the perfect client that you'd like more of, you've figured out how to get yourself to the events that your perfect client attends, and you've laid out your goals for the year. Now you must put it all into action and report back. To whom? Well, generally to yourself! I recommend to my rainmaking clients that they establish a simple tracking spreadsheet and report their networking "touches" on it weekly and monthly. The only way you'll know if your plan is working is to track your activities and successes. A tracking sheet will keep you on target, or help you get back on target if you have some weeks where it's difficult to get out there and engage in practice development.

These upcoming months are a good time to try on some of these tips. I encourage you to take some time away from your desk (maybe on a self-retreat) and put some numbers to the revenue growth you imagine for next year. Then set some measureable goals for yourself related to building your practice. Include things such as attending networking events, joining a new group or two, and maybe strengthening your online presence. Make sure to track your plan and your activities related to those goals. You'll likely find that you are taking some new clients with you into next year's busy season.



About the Author

Monika Miles is President of [Miles Consulting Group, Inc.](#) – a professional service firm in San Jose, California specializing in multi-state tax solutions (sales tax and income tax) and addressing state and local tax issues such as nexus and product taxability for clients doing business across state lines. In addition to her technical tax practice, Monika also helps other professionals to grow their pipelines and enhance their practice development activities through a program called *Jumpstart Your Rainmaking*.



Taxation of Social Security Benefits

Craig M. Anderson

Did you know that, in 2017, over 62 million Americans will receive approximately \$955 billion in Social Security benefits?[1] If have you are retired or contemplating retirement (or have clients who are), part of your social security benefits may be taxable. For most elderly Americans, Social Security is the major source of income that they live off of. As a retiree, keeping as much of the monthly benefit will help ease financial burdens. However, there is a balance between meeting your needs and paying taxes that are owed on your benefit. This article is meant to address the taxation of social security benefits and help you determine if you should withhold a portion of your monthly benefits for taxes.

Social security benefits is broad terminology that includes the monthly retirement benefit, disability, and survivor benefits paid by the Social Security Administration (SSA).[2] It also includes tier 1 benefits received from the Railroad Retirement Board (RRB). Tier 1 railroad benefits are benefits that a railroad employee or beneficiary would have been entitled to receive under the social security system. Therefore, for tax purposes, they are treated in the same manner as social security benefits. [3] When social security benefits are mentioned in this article, it is meant to include all of the above mentioned benefits. Therefore, social security benefits does not include supplemental security income (SSI) payments. The SSI program pays benefits to disabled adults and children who have limited income and resources.

Jack and Mary's Situation

My hypothetical clients, Jack and Mary, live a simple life. They met and got married later in life. Jack has no children and Mary has a daughter, Sara, aged 9, from a prior relationship. They live in an apartment and enjoy traveling together.

Jack is 57 years old and works at Potter and Potter. Barring any unforeseen circumstances, Jack's plan is to work until full retirement age. Outside of social security, Jack has no retirement savings. Jack earns \$90,000 a year as a project manager and has \$2,500 of tax-exempt interest. Jack has family health insurance coverage through his employer.

Mary is 56 years old, currently works as a police dispatcher, and does not have any retirement savings. Mary earns \$43,500 a year. Lately, Mary has not been feeling well. Her doctor told her that she has ulcerative colitis and her symptoms are flaring up. In the past, Mary's colitis has caused her to miss work for weeks at a time. Although Mary's employer has been very understanding of her condition, Mary feels fatigued and worn out missing chunks of her shift due to her condition. After discussing her condition with Jack and her doctor, all believe it is in Mary's best interest to stop working and apply for social security disability.

Mary's last day of work was May 2014. She applied for benefits in the same month. Mary was denied benefits in February 2015. On average, sixty four percent of applicants are denied social security disability with their initial application.[4] Mary,

now 59 years old and having been out of work for three years, was awarded disability benefits in June 2017, after her appeal was won. As a result of not receiving benefits when they were applied for, Mary is entitled to a lump sum payout of her back disability payments. In addition, as a result of Mary's disability, Sara, was awarded social security benefits. Based off Jack and Mary's income, Mary and Sara did not qualify for SSI benefits. If they had benefited, SSI benefits are not taxable.

Mary and Sara's gross lump sum payout for 2017 is:

	Mary	Sara
Monthly disability payout[5]	\$1,700	\$850
# of months remaining in tax year	7	7
Total monthly payout	\$11,900	\$5,950
Plus: Lump sum benefit	<u>\$49,000</u>	<u>\$24,000</u>
Total gross disability for 2017	\$60,900	\$29,950
Less: Attorney fee	<u>(\$6,000)</u>	<u>\$0</u>
Total net disability for 2017	<u>\$54,900</u>	<u>\$29,950</u>

Jack and Mary are concerned about their income taxes. The social security representative told them that their disability benefits may be taxable. Jack and Mary are accustomed to receiving tax refunds when they file their tax returns. They are unsure how much, if any, of the disability payments are taxable and how this will impact their tax return. And what about Sara's disability? Does this get included on their income tax return? If they are going to owe money, they don't want to be surprised when they file their tax return, so they come to you, their accountant, for advice.

Tax Issues Surrounding Mary's Disability

Mary and Sara's lump sum benefit payout represents retroactive disability payments spanning from tax year 2014 to 2017. A lump sum retroactive benefit is normally treated as a social security benefit for the year in which it is received, and not for the year to which it is attributed.[6] This may be disadvantageous if a smaller portion of the benefits would have been subject to tax if taken into account in the year the benefits should have been received.

This disadvantage is a result of how social security benefits are taxed. When the total income of a recipient exceeds applicable base and adjusted base amounts, a portion of social security benefits must be included in gross income and subject to tax. The base amounts and adjusted base amounts vary with the filing status of the taxpayer who receives the social security benefit, as follows:

Exhibit 1 – Base Amount Schedule

Filing Status	Base Amount[7]	Adjusted Base Amount[8]
Single	\$25,000	\$34,000
Head of household	\$25,000	\$34,000
Married filing jointly	\$32,000	\$44,000
Married filing separately		
Live apart at all times	\$25,000	\$34,000
Live together for any part of the year		
	\$0	\$0

The zero base amount for spouses that cohabitate prevents spouses who have approximately equal income from reducing the

amount of benefits subject to tax simply by filing separate tax returns.[9] In order to qualify as living apart, the husband and spouse must have separate abodes. Having separate bedrooms or being temporary absent from the home due to travel, illness, education, business, vacation, or military service is irrelevant.[10]

In regards to Sara's lump sum benefit, that benefit belongs to Sara and is not reported on Jack and Mary's tax return. Sara has the legal right to the benefits, not Mary. In other words, if Mary had no children, she would not receive the additional money that is for Sara's benefit. In accordance with IRS Publication 915, "benefits are included in the taxable income of the person who has the legal right to receive the benefits." Therefore, testing needs to be done to see how much, if any, of Sara's benefit will be taxed to her, which may necessitate the filing of a tax return for Sara.

Taxation of Benefits

The maximum amount of taxable social security benefits is 85% of the gross benefit received. In order to reach the maximum includible amount, the taxpayer's social security benefit plus other income must exceed the adjusted base amount in exhibit 1 above. Since there are two base amounts to test against, there is a two tier calculation to determine how much of the social security benefit needs to be included in gross income.

The first tier calculation tests whether the taxpayer's (or for a joint return, the couple's) total income exceeds the adjusted base amount for the taxpayer's filing status, as noted in exhibit 1. In this context, total income is calculated by combining the taxpayer's modified adjusted gross income (AGI) and one half of the taxpayer's social security benefits for the calendar year. Modified AGI is the taxpayer's (or for a joint return, the couple's) AGI (for 2016, Form 1040, line 37) increased by:[11]

- Tax-exempt interest received during the year (for 2016, Form 1040, line 8b);[12]
- Excluded income from U.S. savings bonds used to pay qualified higher education expenses;[13]
- Excluded amounts paid by an employer for qualified adoption expenses;[14]
- Excluded foreign earned income of taxpayers living abroad;[15]
- Excluded income from sources in U.S. possessions and Puerto Rico;[16] and
- The amount of the deduction for higher education expenses (for 2016, Form 1040, line 34).[17]

The modified AGI calculation is determined without regard to the social security benefits received and the deduction for interest on qualified education loans.[18]

The calculation of Jack, Mary and Sara's modified AGI for 2017 is:

Income Type	Jack	Mary	Total (joint filers)	Sara (single filer)
Compensation	\$90,000	\$0	\$90,000	\$0
Tax-Exempt Interest	<u>\$2,500</u>	<u>\$0</u>	<u>\$2,500</u>	<u>\$0</u>
Modified AGI	<u>\$92,500</u>	<u>\$0</u>	<u>\$92,500</u>	<u>\$0</u>

The tax-exempt interest is added back in to AGI in order to compute modified AGI. To find out if any of the social security benefits are taxable (includible in gross income), we must compare the base amount (noted in exhibit 1) for your filing status with the total of:

- One-half of your benefits, plus
- The modified AGI calculated above.

Let's see how this looks for Jack, Mary and Sara:

Exhibit 2 – Tier 1 Calculation

Line #		Jack and Mary	Sara
1	Modified AGI	\$92,500	\$0
2	One-half of social security benefits	\$30,450	<u>\$14,975</u>
3	Total income	\$122,950	\$14,975
4	Filing status base amount (Exhibit 1)	<u>\$32,000</u>	<u>\$25,000</u>
5	Total income – base amount	\$90,950	\$0
6	One-half of total income – base amount	\$45,475	\$0
7	Smaller of one-half of social security benefits or one-half of line #5	<u>\$30,450</u>	<u>\$0</u>

As joint filers, one-half of Jack and Mary’s combined total income less the base amount exceeds one-half of the social security benefits received. If the total income (\$122,950) did not exceed the adjusted base amount (\$44,000 for joint filers), then the amount reported as the smaller of one-half of social security benefits or one-half of total income less the base amount would be the taxable portion of the social security benefits received for Mary. Since total income does exceed the adjusted base amount, we will need to proceed to the second tier calculation to determine how much is taxable. Sara’s total income less the base amount is zero, therefore, none of the benefits attributed to Sara are subject to taxation and Sara

At this point, Jack and Mary know that a portion of the social security benefits that Mary received will be subject to taxation. The tier 2 calculation will determine this amount.

Exhibit 3 – Tier 2 Calculation

Line #		Jack and Mary
8	Smaller of line #7 (from Exhibit 2) or:	
	<ul style="list-style-type: none"> \$6,000 for joint filers; \$0 for married filing separately \$4,500 for single and head of household 	6,000
9	Enter 85 percent of the excess of Line #3 (from Exhibit 2) over the adjusted base amount (from Exhibit 1) $(\$122,950 - \$44,000) \times .85$	\$67,108
10	Add line #8 and line #9	\$73,108
11	Enter 85% of social security benefits $(\$60,900 \times .85)$	\$51,765
12	Enter the smaller of line #10 or line #11. This is the taxable portion of Mary’s social security benefit	\$51,765

Whereas the tier 1 calculation tested the social security benefits against a fifty percent threshold, the tier 2 calculation calculates the social security benefits against an eighty five percent threshold. In Jack and Mary’s case, since eighty five percent

of their social security benefit received was less than eighty five percent of their total income, the maximum allowable amount of the social security benefit is subject to taxation.

The \$6,000 payment for the attorney representing Mary during the appeals process is made directly from Social Security to the attorney on record. Legal fees incurred in connection with the collection of social security benefits qualify as an expense incurred in the production of income and, are deductible to the extent the benefits are included in income. The expense may only be claimed as a miscellaneous itemized deduction, which are deductible only to the extent the legal fees exceed two-percent of the taxpayer's AGI.

Additional Opportunity

Of the \$90,850 that Jack and Mary received, only \$51,765 will be subject to taxation. However, the calculation thus far is taxing the amount of the lump sum payment in the year received. As previously mentioned, this may be disadvantageous if a smaller portion of the benefits would have been subject to tax if taken into account for the earlier year, when the benefits should have been received. Because of this inequity, the taxpayer may elect to include in gross income the total amount that would have been included in gross income in the appropriate years if the underpayments had been received when due.[19]

If the election is made, a taxpayer recomputes the taxable part of benefits for the year to which the payment relates, using Year 1 income and including the lump sum payment. The taxpayer then deducts any taxable benefits that were previously reported for Year 1. The remainder is the taxable part of the lump-sum payment. This is added to the taxable part of the recipient's benefits for the current tax year (Year 2), figured without the lump sum payment. As a result, the taxable benefits attributable to Year 1 are included in the taxpayer's income for Year 2, so the taxpayer does not need to file an amended return for Year 1.[20]

Within IRS Publication 915, the IRS provides worksheets for taxpayers to use to calculate whether they should elect to attribute retroactive benefits to a prior tax year. The election is made by adding an "LSE" designation to relevant lines on the tax return for the year the lump sum benefits were received. Once the election is made, it cannot be revoked without the consent of the IRS.[21]

Withholding and Estimated Tax

Social security benefits are generally not subject to federal income tax withholding.[22] Social security recipients can ask to have federal income tax withheld from their benefits.[23] If the recipient decides not to voluntarily have federal income tax withheld, there may be a need for the taxpayer to file quarterly estimates.

The taxpayer options for voluntary withholding must specify one of the following withholding percentages: 7%, 10%, 15%, or 25%. This request is made on Form W-4V.

Footnotes follow on page 23.



About the Author

Craig M. Anderson, CPA, MT is a senior tax manager at Siegfried Advisory, LLC, an affiliate of The Siegfried Group LLP. Siegfried Advisory LLC provides leadership, financial and tax advisory services to entrepreneurial organizations and high net-worth families. To learn more about Siegfried Advisory, please visit the Siegfried Advisory website at <http://www.siegfriedadvisory.com>.

Footnotes

- [1] <https://www.ssa.gov/news/press/factsheets/basicfact-alt.pdf>
- [2] Internal Revenue Code (IRC) Section 86(d)(1)(A)
- [3] IRC Section 86(d)
- [4] <http://www.ssdr.com/5-72.html>
- [5] Calculation assumes a flat rate payout over a number of years; however, social security benefits are indexed for inflation adjustments.
- [6] Rev. Rul. 84-73, 1984-2 CB 16
- [7] IRC Section 86(c)(1)
- [8] IRC Section 86(c)(2)
- [9] S. Rep. No. 23, 98th Cong., 1st Sess. 27 (1983)
- [10] Reg. §1.85-1(b)(4)
- [11] IRC Section 86(b)(2)
- [12] IRC Section 86(b)(2)(B)
- [13] IRC Section 135
- [14] IRC Section 137
- [15] IRC Section 911
- [16] IRC Sections 931, 933
- [17] IRC Section 222
- [18] IRC Section 221(b)(2)(C)
- [19] IRC Section 86(e)(1)
- [20] IRS Publication 915, Social Security and Equivalent Railroad Retirement Benefits, p. 11 (2016)
- [21] IRS Publication 915, Social Security and Equivalent Railroad Retirement Benefits, p. 11 (2016)
- [22] Rev. Rul. 84-173, 1984-2 CB 16
- [23] IRC Section 3402(p)



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The Accountant's Role in Cooperative Divorce

Susan Carlisle

As an accountant, I play an active role in the discovery and negotiation phase of the divorce process. It's my job to help the divorcing couple assemble their financial data, so that they know and understand their economic position in order to make decisions about their current situation and plan for the future. Usually one of the parties has a better handle on the family's financial picture, and I attempt to equalize the power by education and encouragement. Sometimes I have to help move one of them from dependence in the direction of independence. Quite often attorneys send their clients to me to assist the couple in dividing their assets. I help them determine the tax benefits and costs associated with the property division and the tax ramifications of different spousal and child support combinations. In the cooperative divorce model, I maintain communication with the attorneys to keep the process moving along smoothly.

These days, if there is no business or professional practice involved, the two largest assets are the residence and the retirement plans.

Retirement Plans

Although some people hold an emotional attachment to their stocks and mutual funds, after spending a considerable amount of time selecting and revising their investments, others would rather have their cash in hand immediately, and ask their spouses to liquidate the retirement plans in the property settlement.

Any transfer between spouses pursuant to a divorce would be tax-free as long as the funds went from one retirement account to another. However, if they should decide to cash out early, I admonish them regarding the taxes and penalties that might be assessed. There are some ways to withdraw pension funds without paying the early withdrawal penalties, if the documents are filed properly in a QDRO. In a financial mediation, I always reduce the value of the retirement account by the potential tax bill that would be due in the future.

The Residence

Then we come to the house. As a financial advisor, I look at the house as a real estate investment. I want to know about the location, the interest on the trust deeds, the property taxes, and the maintenance costs. Since it's our mission as divorce professionals to help couples make the transition from one family unit to two, it's often the house that's the issue where the financial considerations collide head on with the emotional agendas.

Just one generation ago, a split up meant that the children stayed at home with the mother, while the father found alternate living accommodations. You may recall the "Odd Couple," where Felix shared an apartment with Oscar after his wife asked

Continued on the following page

him to leave the house and never return. Then along came inflation in the real estate market. Concurrently, the tax laws encouraged people to sell their homes at a profit and rollover the proceeds within two years after the sale. So a common scenario in the seventies and eighties was for the family home to be sold, and each party bought their own place with the cash they received out of escrow.

Until 1997, the tax laws put pressure on the couple to sell the house within two years of the divorce, because, otherwise, the spouse who moved out lost the benefit of the rollover provision. Now, finally, the tax laws have given us the relief we needed.

First of all, anyone is eligible to earn \$250,000 in gain on the sale of a principal residence without paying capital gains tax every two years; a couple filing jointly can earn up to \$500,000. A person must have lived in the house two out of the previous five years to qualify for this exclusion. Now, for the first time, a husband or wife who moves out and gives the ex-husband or wife exclusive use of the house under a divorce decree, can still qualify for the exclusion as if he or she continued to live there. Further, even if you are compelled to sell the house in less than two years from the date of purchase because of an unforeseen divorce, each spouse can claim a percentage of the \$250,000 exclusion.

The government's rules are no longer an impediment to making a rational decision regarding the residence. Yet we're still faced with emotional attachments that often prevent or preclude a rational decision.

Emotional Attachment to the Residence

These days, attorneys are advising their clients not to move out of the house. So instead of the home being a respite and an oasis from the trials and tribulations of the outside world, it can become a seething cauldron of unresolved issues or an undeclared war zone, with both parties refusing to surrender and leave.

A woman was referred to me, ostensibly because she and her husband were having religious differences, and she was considering divorce. At the first phone call I learned that there was over a decade long history of emotional and physical abuse, that more recently the husband lashed out at the youngest son, using the young man's new-found religious practice as an excuse to belittle him. A few months earlier the teenager was beaten severely. More recently, he attempted suicide. Yet there was no resolution, because, as the woman explained, her husband refused to leave the house, and she insisted that she and her children had to stay there, as well.

Sometimes one party –often the woman, but not always–has an emotional attachment to the house. Some men bolster their image by leasing sports cars and dating physically attractive women in an attempt to appear more successful to others. A parallel may exist with women and their homes. Large, well-decorated houses with pools in upscale neighborhoods are their badges of success. If an advisor should recommend moving elsewhere, they put up a great deal of resistance to what they perceive as a step down in status.

Ginita Wall, a financial planner in the San Diego area, describes the house as a “marital museum,” representing the hopes and dreams of the couple during the marriage. It becomes a memorial to what was lost, and the ex-wife maintains it even though she can't afford it. She sees this as a way of punishing her ex-husband for leaving the family unit, because she expects him to feel bad each time he visits his old house. Her attorney goes along with her, because he thinks he's zealously representing her interests. In a negotiation, she's willing to trade away a portion of her retirement or other assets that may be more beneficial to her and the children, just so that she can stay in the house. She'll give you a whole host of rationalizations: the kids can't handle the move after all the stress they've been through; their friends are all in the neighborhood and at the local school; she runs her small business out of the home; her church group gathers there on Sunday afternoons. A few years later, when she realizes the unnecessary burden she's carrying and ultimately sells the house, she is faced with having to bear tens of thousands of dollars in closing costs.

Case Study

A year and a half ago an attractive, intelligent, woman was referred to me by a family law attorney. She arrived at my office in tears clutching a large, red business checkbook like a mother holds an infant. She was a victim who was alternately angry and depressed. Her abusive husband had left her twenty years after they emigrated together from Europe as two young dentists.

Continued on the following page

Their marriage produced two children and what was once a thriving dental practice and a 5,000 square foot home in the Valley with two expensive foreign cars in the garage. Her husband had been in complete control of the finances, the business, and the credit cards. She had never even written checks before. He was currently living with his girlfriend, who was previously her best friend; their house was in foreclosure; the dental practice was months behind on the bills; the landlord was threatening eviction; \$200,000 in payroll taxes were two years late; \$50,000 in income taxes were overdue; and the employees were threatening to quit over their bounced paychecks. With the assistance of some cooperative doctors from the old country, the ex-husband claimed he was totally disabled and conveniently walked away from the disaster he created.

She came to me for business advice and to learn how to use the checkbook. I organized the bills and installed an accounting system at the dental office. A consulting group stepped in and taught her how to run the million dollar dental practice that included five dentists and six other employees. What I was not prepared for was the transformation that occurred in my client.

Each week she would arrive at my office with the bills. We prioritized them and talked about the dental practice for twenty minutes. For the remaining forty minutes we talked about her life. I realize now that I should have insisted that she contact a psychotherapist, but she would not leave my office until she told me about each week's events, and I didn't have the heart to send her away. Each time she would describe what terrible things her ex-husband was doing. Each week I asked her to stop focusing on his behavior and to look forward, to think about the life she wanted for herself and the kids. I knew that her family had persevered intense persecutions in Europe, and that she had succeeded in the transition to a new life. I guessed that she was actually very courageous, not the passive and powerless woman she presented herself to be.

A year and a half later, she is a competent manager, able to meet the challenges of providing services in a managed care environment. She no longer requires the hands-on assistance of the business consultants, the bills are being paid on time, and she's earning \$100,000 a year running the dental practice. By my working closely with her attorney, and as a result of her turning the business around, the judge awarded her sole control of the dental practice, and now her ex-husband is demanding that she pay him alimony.

Unfortunately, there is still a problem left to resolve with the situation. Before he left, her ex-husband had borrowed all the equity out of their residence, leaving payments of \$5,500 a month. She and the two kids don't need a 5,000 square foot mansion, but she refuses to sell the house.

In the cooperative divorce model, I give financial advice while simultaneously allowing the clients to make their own decisions. I focus on avoiding control and exacerbating the clients' hostility and defensiveness. Because I have no training as a psychotherapist, I look to a coach to guide the couple through their emotional issues, so that they can make rational decisions regarding their finances.

I have urged divorcing couples to seek counseling for themselves and their children, but they often refuse to acknowledge the need, or they cite cost as a prohibition. Yet they spend tens of thousands on adversarial attorneys arguing in and out of court over minutiae.

As an accountant and as a human being, I abhor the tremendous waste of financial and emotional resources on the interminable divorce wars that benefit no one in the family. I have witnessed firsthand that the cooperative divorce model does work, so that people can recover from the breakup of their relationships, heal and start again.



About the Author

Susan Carlisle, CPA has been a licensed CPA in California since 1988. She works with attorneys and mediators in Los Angeles, Orange and Ventura counties and has testified in those courtrooms. She has been appointed as the Court's expert and as a jointly retained forensic accountant for cash flow available for support, property division, tracing, and business valuations.

In addition to her license as a CPA, she holds licenses in real estate, insurance, and as a registered investment adviser. Ms. Carlisle also holds specialized certificates in personal financial planning, business valuations, and forensics. All of these licenses and certificates require continuing education credits and renewal every few years.



Why Enrolled Agents and Tax Preparers should be Members of the National Society of Accountants (NSA)

Beanna J. Whitlock

As an Enrolled Agent of 40 years I have often described what I do and how I get to do it as, “an Enrolled Agent is licensed by the U. S. Department of Treasury to represent taxpayers before all administrative divisions of the Internal Revenue Service.” I am explicit about not being an accountant.

That was before:

RAINBOW TAX SERVICE, INC. v. COMMISSIONER

128 T.C. 42 (2007)

128 T.C. No. 5

RAINBOW TAX SERVICE, INC., PETITIONER v. COMMISSIONER OF INTERNAL REVENUE, RESPONDENT

United States Tax Court. Filed March 8, 2007.

Attorney(s) appearing for the Case

Donna Joyner-Rodgers (an officer), for petitioner.

Derek W. Kaczmarek, for respondent.

United States Tax Court.

SWIFT, Judge:

Respondent determined deficiencies of \$11,903 and \$5,003, respectively, in petitioner’s Federal income taxes for petitioner’s tax years ending June 30, 2002 and 2003.

Unless otherwise indicated, all section references are to the Internal Revenue Code in effect for the years in issue.

The issue for decision is whether petitioner’s tax return preparation and bookkeeping services are to be treated as accounting services. If so, petitioner will be treated as a qualified personal service corporation under section 448(d)(2) and will be subject to the flat 35-percent tax rate set forth in section 11(b)(2).

FINDINGS OF FACT

Most of the facts have been stipulated and are so found.

At the time the petition was filed, petitioner’s principal place of business was located in Las Vegas, Nevada.

In 1978, Steve Rodgers (Rodgers) incorporated petitioner as a Nevada corporation, and until his death in 2002 Rodgers owned all of petitioner’s stock. Petitioner’s business consisted of providing tax return preparation and bookkeeping services,

Continued on the following page

which services Rodgers and other individuals provided as petitioner's employees.

Over the years, Rodgers, on petitioner's behalf, increased the number of petitioner's clients and the number of employees to perform for petitioner's clients tax return preparation and bookkeeping services, and eventually petitioner opened two additional offices in the Las Vegas area.

After Rodgers' death in 2002, Rodgers' wife, Donna Joyner-Rodgers (Joyner-Rodgers), succeeded Rodgers as petitioner's president and assumed management of petitioner and of petitioner's three offices. Also, after Rodgers' death petitioner's stock was owned by Rodgers' estate, and then in 2004, petitioner's stock was transferred from Rodgers' estate to Joyner-Rodgers.

In addition to her administrative and managerial responsibilities relating to petitioner, Joyner-Rodgers, as an [128 T.C. 44] employee of petitioner, also provides to petitioner's clients tax return preparation services.

During the years in issue, petitioner's tax return preparation services generally consisted of the preparation of clients' Federal and State individual, corporate, partnership, gift, and estate tax returns. Petitioner's bookkeeping services generally consisted of the preparation, from client records, of profit and loss statements and various other reports and forms relating to client Federal payroll taxes, State unemployment taxes, and sales taxes.

Petitioner is not a public accounting firm, and petitioner's employees do not perform services that require petitioner's employees to obtain certified public accountant (C.P.A.) licenses. Rodgers nor Joyner-Rodgers ever held a C.P.A. license.

For the years in issue, petitioner's employees (including Rodgers and Joyner-Rodgers) spent all of their work-related time performing for petitioner's clients tax return preparation and bookkeeping services and related administrative and support services. On each of petitioner's timely filed corporate Federal income tax returns, petitioner's income tax liability was calculated using the section 11(b)(1) graduated income tax rates applicable to corporations.

On April 14, 2005, respondent issued to petitioner a notice of deficiency in which respondent determined that petitioner's tax return preparation and bookkeeping services constituted accounting services and therefore that petitioner, for the years in issue, should be treated as a qualified personal service corporation subject to the flat 35-percent tax rate set forth in section 11(b)(2). The amounts of the deficiencies herein represent the increase in petitioner's Federal income taxes as a result of applying the flat 35-percent tax rate.¹

OPINION

In general, for Federal income tax purposes, corporations are taxed at graduated income tax rates. Sec. 11(b)(1). So-called qualified personal service corporations as defined in section 448(d)(2), however, are taxed at a flat 35-percent income tax rate. Sec. 11(b)(2).

[128 T.C. 45]

A corporation is to be treated as a qualified personal service corporation (1) if substantially all of the corporation's activities involve the performance of services in the fields of "health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting" (hereafter covered services), sec. 448(d)(2)(A); sec. 1.448-1T(e)(4)(i), Temporary Income Tax Regs., 52 Fed. Reg. 22768 (June 16, 1987) (the "function test"); and (2) if 95 percent of the corporation's stock is owned by, among others, individual employees performing covered services for the corporation (or by the estate of a prior employee of the corporation who performed covered services for the corporation), sec. 448(d)(2)(B); sec. 1.448-1T(e)(5)(i), Temporary Income Tax Regs., 52 Fed. Reg. 22770 (June 16, 1987) (the "ownership test").

Substantially all of a corporation's activities will be treated as covered services only if in the aggregate the corporation's employees spend 95 percent or more of their time in performing covered services. Sec. 1.448-1T(e)(4)(i), Temporary Income Tax Regs., *supra*. In calculating the amount of employee time spent performing covered services, administrative and support services incident to covered services are treated as covered services. *Id.*

Section 448(d)(2), the regulations thereunder, and court opinions generally do not define accounting services.² However, in section 1.448-1T(e)(5)(vii), *Example 1(i)*, Temporary Income Tax Regs., 52 Fed. Reg. 22770 (June 16, 1987), the preparation of tax returns and audit and financial statements are treated as accounting services:

Continued on the following page

X, a corporation, is engaged in the business of providing accounting services to its clients. These services consist of the preparation of audit and financial statements and the preparation of tax returns. For purposes of section 448, such services consist of the performance of services in the field of accounting. * * *

Petitioner concedes that, if tax return preparation and bookkeeping services constitute accounting services, by virtue of Rodgers' and Rodgers' estate's ownership of petitioner's stock, the above ownership test has been satisfied.

Petitioner, however, argues that, for purposes of section 448(d)(2)(A), tax return preparation and bookkeeping services [128 T.C. 46] do not constitute accounting services, that petitioner therefore does not meet the above function test, and that petitioner should not be treated as a qualified personal service corporation.

Petitioner argues that under Nevada law, accounting services can be performed only by C.P.A.s, and that because petitioner is not a C.P.A. firm, does not employ C.P.A.s, and does not perform services which are restricted under Nevada law to C.P.A.s, petitioner should not be treated as performing accounting services.

In essence, petitioner would treat only those services which require a C.P.A. license as accounting services and would treat other tax return preparation and bookkeeping services as nonaccounting services.

We disagree with petitioner's overly restrictive definition of accounting services.

Petitioner fails to appreciate the distinction between "public accounting" and "accounting". Public accounting, which generally consists of the preparation and/or audit of financial statements, and generally requires a C.P.A. license, represents a branch of accounting, not the entire realm of accounting. See Weygandt, et al., *Accounting Principles* 6-9 (3d ed. 1993).

Further, section 448(d)(2) requires only that the services be in the "field of accounting" and are not limited to public accounting. Historically, tax return preparation and bookkeeping services are regarded as within the field of accounting.

Accounting has been defined as:

the process of recording transactions in the financial records of a business and periodically extracting, sorting, and summarizing the recorded transactions to produce a set of financial records. * * * [Blacks's Law Dictionary 21 (8th ed. 2004).]

Tax return preparation, which requires extracting information relating to financial transactions, analyzing that information, and then summarizing and reporting that information on a tax return, fits within the above general definition of accounting.

Also, as discussed above, section 1.448-1T(e)(5)(vii), Example 1(i), Temporary Income Tax Regs., *supra*, indicates that, [128 T.C. 47] for purposes of section 448(d)(2), tax return preparation services are to be treated as accounting services.

We note that under Nevada statutory law "public accounting" includes "the preparation of tax returns". Nev. Rev. Stat. Ann. sec. 628.023 (Lexis Nexis 2004).

We note further that a defining characteristic of our Federal income tax system is the reporting of financial transactions within "annual accounting periods". Sec. 441(c). Tax professionals and the Internal Revenue Code itself generally regard the process of determining in which annual accounting period revenues and expenditures are to be recognized as tax accounting. See generally secs. 441 through 483.

A significant aspect of petitioner's tax return preparation services consists of assisting clients in properly recognizing and reporting revenue and expenditures in the appropriate tax year or, in other words, performing tax accounting services.

We conclude that petitioner's tax return preparation services, for purposes of section 448(d)(2), constitute services within the field of accounting.

Bookkeeping, which section 448 and the regulations thereunder do not address, has been defined elsewhere as:

a branch of accounting that deals with the systematic classification, recording, and summarizing of business and financial transactions in books of account. * * * [Webster's Third New International Dictionary (1981).]

Not only does bookkeeping constitute a "branch" of accounting, but our system of double-entry bookkeeping undergirds modern financial accounting.³

Continued on the following page

We sustain respondent's determination that tax return preparation and bookkeeping services constitute and are to be treated as services in the field of accounting. Substantially all of petitioner's employees' activities involve the performance of services in the field of accounting. Accordingly, for the 2 years in issue, petitioner is to be treated as a qualified personal service corporation taxed at the flat 35-percent rate set forth in section 11(b)(2).

[128 T.C. 48]

To reflect the foregoing,

Decision will be entered for respondent.

Many EAs and other tax professionals are afraid to use the word "accountant" unless they are a Certified Public Accountant. As Ms. Rodgers testified, "we are not allowed to use the word accountant in Nevada unless a Certified Public Accountant."

The judge went on to say the court does not define "accounting" the way the AICPA does.

What the court basically said was that if you did tax preparation, represented taxpayers before the Internal Revenue Service or prepared books, you ARE an Accountant!

Enrolled Agents and tax professionals defined as accountants by the Court need the representation, goods and services, and associations with accountants like themselves who understand the complexities of the business of tax.

With the clarity of our profession by the courts I am more convinced today than ever before of the value of the National Society of Accountants.

Footnotes

1. For the years in issue, the flat 35-percent tax rate set forth in sec. 11(b)(2) equals the highest marginal corporate tax rate set forth in sec. 11(b)(1).
2. In *Ron Lykins, Inc. v. Commissioner*, T.C. Memo. 2006-35, the parties did not dispute that tax return preparation services constituted accounting services.
3. Historians generally consider Luca Pacioli (1445-1514 or 1517) to be "The Father of Accounting" for first documenting in his work *Summa de Arithmetica, Geometria, Proportioni et Proportionalita* (Venice 1494) the process of double-entry bookkeeping.



About the Author

Beanna J. Whitlock, EA CSA, is an Enrolled Agent in private practice as Whitlock Tax Service, LLC located in Reno, NV.

A tax law instructor for more than 35 years with emphasis on Limited Liability Company and Ethics and Professional Conduct presentations. Beanna has taught tax professionals across the country and is an adjunct professor for Auburn University. She is a faculty member of the National Center for Professional Education. She is the Executive Director of the NCPE Fellowship, a web based organization providing educational resources and practice management tools for tax professionals at www.ncpefellowship.com.

She has testified before Congress, Treasury and the IRS Oversight Board. She has served on the IRS Information Reporting Program Advisory Council as well as the IRS Commissioner's Advisory Group (CAG). She served as the IRS Director of National Public Liaison for Commissioner Mark Everson and is a recipient of the Commissioner's Award for Excellence of Service.



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• ALL AROUND NSA

PHOTOS FROM NSA'S ANNUAL CONVENTION IN RENO

The National Society of Accountants Annual Convention in Reno, NV was a great success. NSA member Brian Thompson was installed as NSA President, awards were presented to outstanding members and others who have contributed to the tax and accounting profession. Many attendees took part in the Live EA Exam Review Course, the ATP Review and Exam, and the other educational sessions that were offered. Everyone who took advantage of the networking and social opportunities had a great time, too.

Here is a selection of photos from the event. View more photos on NSA's [Flickr](#).





Accreditation Council for Accountancy and Taxation

REGISTER FOR ACAT WINTER EXAMS

Fall 2017 ACAT Tax and Accounting Accreditation Exams Offered November 1-December 15

The exams are offered by the Accreditation Council for Accountancy and Taxation® (ACAT) and the registration deadline is October 30, 2017. They are designed for accountants, tax preparers and students seeking to earn the Accredited Business Accountant/Advisor (ABA), Accredited Tax Preparer (ATP), and Accredited Tax Advisor (ATA) credentials. The Comprehensive Examination for Accreditation in Accountancy (ABA), Accredited Tax Preparer (ATP) exam and the Accredited Tax Advisor (ATA) exam can be taken between November 1 – December 15, 2017 at Castle Testing Centers across North America.

Achieving ACAT accreditation provides a distinction that sets accounting and tax professionals apart and open doors for practice development and career advancement. Earning ACAT credentials provides evidence to clients that accounting and tax professionals have achieved a high level of knowledge and skills and abilities needed to effectively serve their clients.

Locate your testing city here

The Comprehensive Examination for Accreditation in Accountancy, the Accredited Tax Preparer exam, and the Accredited Tax Advisor exam can be taken between November 1 – December 15, 2017 at test sites across the United States.

The exams are offered by the Accreditation Council for Accountancy and Taxation® (ACAT) and the registration deadline is October 30, 2017. They are designed for accountants, tax preparers and students seeking to earn the Accredited Business Accountant/Advisor (ABA), Accredited Tax Preparer (ATP), and Accredited Tax Advisor (ATA) credentials.

Achieving ACAT accreditation provides a distinction that sets accounting and tax professionals apart and open doors for practice development and career advancement. Earning ACAT credentials provides evidence to clients that accounting and tax professionals have achieved a high level of knowledge and skills and abilities needed to effectively serve their clients.

EXEMPT

Accredited Tax Preparers (ATP) and Accredited Business Accountant/Advisors (ABA) are exempt from taking the Annual Federal Tax Refresher (AFTR) course and exam that is part of the Internal Revenue Service (IRS) voluntary Annual Filing Season Program (AFSP).

Rules about who may represent clients before the IRS changed in 2016 – ATPs and ABAs who are AFSP Record of Completion Holders now have limited representation rights, meaning they can represent clients whose returns they prepare and sign, before examination, customer service representatives and the Taxpayer Advocate Service.

ACAT credential holders must meet ongoing continuing professional education (CPE) requirements and adhere to a code of ethics.



The ABA is a high-level credential that tests the technical proficiency of accounting and tax professionals in financial accounting, financial reporting, financial statement preparation, taxation, business consulting services, business law and ethics. Emphasis is on a practical approach to public accounting. Achieving the ABA designation in IA and MN meets state regulatory requirements to practice public accountancy.

The exam is divided into two parts: Practice 1 and Practice 2. Practice 1 covers financial accounting and financial statement preparation, presentation and reporting. Practice 2 covers the taxation, business law, business accounting and ethics.

The ABA is accredited by the National Commission for Certifying Agencies (NCCA), an independent resource recognized as the authority on accreditation standards for professional certification organizations and programs.



The ATP is a leading national credential for tax practitioners who have a thorough knowledge of the existing tax code and the preparation of individual tax returns with an expertise in comprehensive 1040 issues including supporting schedules,

self-employed returns, and ethics.



The ATA is a premier national tax credential for practitioners who handle sophisticated tax planning issues, including planning for owners of closely held businesses, planning for the highly compensated, choosing qualified retirement plans and performing estate tax planning. Their expertise covers tax returns for individuals, business entities, fiduciaries, trusts and estates, as well as tax planning, tax consulting and ethics.

The exam tests for sophisticated tax planning issues, including planning for owners of closely held businesses, planning for the highly compensated, choosing qualified retirement plans, and performing estate tax planning.

ABA, ATP, and ATA candidates must pass the exams and meet experience requirements to earn the credentials. A blueprint for each exam with more information on topic areas is available at www.acatcredentials.org.

The exam fee for both Practice 1 and Practice 2 of the ABA exam is \$400 or \$250 for one Practice of the exam. The ATA and ATP exam fees are \$250. The deadline to register is October 30, 2017.

The National Society of Accountants (NSA) offers [preparatory course study guides for both the ABA, ATA, and ATP](#) exams and preview exams, which mirror the topics and question format of the ACAT exams.

For more information about ACAT credentials and to register, visit www.acatcredentials.org or call 888-289-7763.

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[Master Tax Guide](#): Download the CCH 2017 Master Tax Guide by chapter.

[Technology Search](#): When you need help finding the right accounting or tax software for your practice, use the free Technology Search for help.

[2017 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.

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Gear Up 1040 Individual Tax Seminar at Mohegan Sun

NSA's Gear Up returns to Mohegan Sun Resort November 15-16 2017

The National Society of Accountants is bringing the 1040 Individual Gear Up Tax Seminar back to Mohegan Sun Casino Resort in Uncasville, CT on November 15-16, 2017. The Gear Up seminar is an industry-leading two-day 1040 course attracts thousands of attendees each year with speakers who well-known in their fields as hands-on practitioners and recognized authorities.

2-Day 1040 Course Details

This comprehensive course covers key tax issues for completing complicated individual returns. All topics include coverage of new legislation and extenders, revenue rulings and procedures, as well as case law to help the busy practitioner keep current.

Speakers are all practicing preparers who will share practical tips and insights to help tax and accounting professionals get ready for tax season. Topics include:

- Changes to health care law.
- Resolving ID theft problems.
- Reporting in the sharing economy.
- Adjusting for compensation-based covered securities.

All new law, once passed, will be covered.

Attendees receive a comprehensive manual that alone is worth the price of registration!

Prerequisites: None

Advance Preparation: None

Who should attend? CPAs, EAs, CTEC, CFPs, ALL TAX PROS

16 hours CPE

13 hrs Tax + 3 hrs Tax Update

Schedule:

November 15: 8:00 am – 4:30 pm

November 16: 8:00 am – 4:30 pm

Register

NSA Member: \$399 Nonmember: \$479

Register

Refunds and Cancellations: Requests for refunds must be received in writing by October 15, 2017 and will be subject to a \$75 cancellation fee. No refunds will be granted after October 15, 2017. For more information regarding refund, complaint and/or program cancellation policies, please contact our offices at (800) 966-6679.

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Dates available: November 14-15, 2017

*Reserve your room by October 24, 2017 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!

MEET THE NEW 2017-2018 NSA OFFICERS AND DIRECTORS

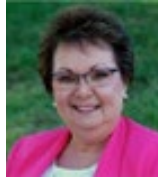
The National Society of Accountants (NSA) elected a slate of new officers, District Governors and State Directors at its 72nd Annual Convention in Reno, NV. The following officers were installed to the NSA Executive Committee for 2017-2018:

President



Brian Thompson
Little Rock, AR

First Vice President



Christine Freeland
Chandler, AZ

Second Vice President



Joel Grandon
Marion, IA

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Curtis Lee
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Immediate Past President



Al Giovetti
Catonsville, MD

Board Representative



Marchelle Foshee
Morrilton, AR

District Governors

District Governors elected to new terms in several districts included:

District I



Joseph Santoro
Wolfeboro, NH

District III



Paul Thompson
Alexandria, VA

District V



Robert Thoma
Columbia, IL

District VII



Eric Hansen
Omaha, NE

District IX



Susan Robertson
Portland, OR

District XI



Dick Isoo Oshima
Honolulu, HI

State Governors



State Directors elected include:

District II:

New York: Elizabeth Rodriguez, Lagrangeville, NY

Pennsylvania: Andrew J. Piernock, Jr., ATP, Philadelphia, PA

Puerto Rico: Maria T. Maiz-Aguilar, ABA, Hormigueros, PR

District IV:

Florida: Robert Huisinga, ATA, ATP, Jacksonville, FL

Georgia: Rhonda Marshall, EA, Bowdon, GA

North Carolina: Margie H. Strider, ATP, ATA, Asheboro, NC

District VI:

Alabama: Martha J. Drake, Vinemont, AL

Mississippi: Pamela Stamps, CPA, Brookhaven, MS

Tennessee: Gene Damron, CPA, ABA, ATA, ATP, Olive Branch, MS

District VIII:

Arkansas: Christopher Clatworthy, CPA, Marvell, AR

Louisiana: Danette L. Daigle, EA, ARA, Baton Rouge, LA

New Mexico: Mae S. Yee, CPA, Albuquerque, MN

Oklahoma: Dean Taylor, EA, Oklahoma City, OK

Texas: Lloyd H. Thelemann, EA, CSA, Garland, TX

District X:

Arizona: Nancy Weinstein, EA, Mesa, AZ

California: Roger S. Kent, EA, Los Gatos, CA

A new state director from Rhode Island is also filling a vacancy. He is Robert J. Iadeluca, EA, PA of Cranston.

MEET THE 2017-2018 ACAT BOARD OF DIRECTORS

The new board of directors for NSA's sister organization, the Accreditation Council for Accountancy and Taxation, were introduced at the 2017 Annual Convention in Reno.

ACAT Board of Directors

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Virginia Bruns
Big Lake, MN

Vice President



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Monroe, WA

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Catonsville, MD

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First Vice President



Christine Freeland
Chandler, AZ

For more information about ACAT and ACAT credentials visit www.acatcredentials.org or call 888-289-7763.



OCTOBER / NOVEMBER 2017 NSA CONNECTED WEBINARS

The NSA has scheduled new CPE-credit webinars for this summer on topics like Innocent Spouse, and Recognizing International Issues. Check out the listings here, and on <https://nsawebinars.nsacct.org>.

NSA 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.

Dealing with the Partnership K-1 on the 1040- What You Really Need to Know!

Thursday, October 5, 2017

2:00-3:00 pm (EDT)

IRS CE: 1 Hour/Federal Tax Law

NASBA CE: 1 Hour/Tax

[Register](#)

Do you feel overwhelmed when your client hands you a Partnership K-1? Where do you start, what questions do you ask and what do you need to know? With the increasing popularity of pass through entities, it is more likely that you may be dealing with a K-1 from a partnership on your client's tax return. This webinar will show you how to take the K-1 items to the 1040 tax return and practice points on issues such as passive and active participation, the Net Investment Income Tax, basis issues and unreimbursed partner expenses. This session includes real life examples, potential hazards and resources to keep you in compliance and help you report the K-1 correctly.

Presented by Kathy Hettick, EA, ABA, ATP and Gene Bell, EA, ATA, CFP

Up in Smoke: The Ethical and Tax Implications from the Legalization of Marijuana

Tuesday, October 17, 2017

2:00-4:00 pm (EDT)

IRS CE: 2 Hours/Federal Tax Law

NASBA CE: 2 Hours/Taxes

[Register](#)

The convergence of federal and state law on the distribution and use of marijuana raises numerous legal issues for growers, distributors, marijuana users and attorney advisers, among others. This course will examine how interested parties navigate the legal haze surrounding the booming industry with a particular focus on the how the Rules of Professional Conduct and the tax code are implicated.

Presented by T. Joshua Wu

Form 706: The Estate Tax Return

Tuesday, October 24, 2017

2:00-4:00 pm (EDT)

IRS CE: 2 Hours/Federal Tax Law

NASBA CE: 2 Hours/Taxes

[Register](#)

While its daunting title “United States Estate (and Generation-Skipping Transfer) Tax Return” may overwhelm even the most seasoned professional all on its own, Form 706 schedules further serve to confuse and overwhelm.

This webinar will help the practitioner to put assets, liabilities, trust holdings, and community property allocations where they belong and will provide sample entries to mitigate—and possibly eliminate—IRS scrutiny of the completed return.

Presented by Monica Haven, EA, JD

What is IRD?

Tuesday, October 31, 2017

2:00-4:00 pm (EDT)

IRS CE: 2 Hours/Federal Tax Law

NASBA CE: 2 Hours/Taxes

[Register](#)

“...income in respect of a decedent refers to those amounts to which a decedent was entitled as gross income but which were not properly includible in computing his taxable income for the taxable year ending with the date of his death or for a previous taxable year under the method of accounting employed by the decedent” [Treas. Reg. § 1.691(a)-1].

Clear as mud!

This webinar will slog through the muck and mire to identify sources of IRD as well as offsetting deductions; how and where to report each; and calculate a tax deduction for any estate tax that may result.

Presented by Monica Haven, EA, JD

Estate Planning for Small Business Owners

Wednesday, November 1, 2017

2:00-4:00 pm (EST)

IRS CE: 2 Hours/Federal Tax Law

NASBA CE: 2 Hours/Taxes

[Register](#)

The owners of a closely held business face numerous challenges. Besides the obvious long hours needed to get the business off the ground and then continued long hours to keep the business going in a competitive marketplace, there are many obstacles, the owners may face problems due to reduction in income due to the death or disability of a key employee, burdensome regulations, need to have a competitive retirement plan in place to retain employees, liability issues, overhead, and creating a smooth transfer of the business to the family. Many of these problems can be avoided, or at least reduced, through proper planning.

This webinar will examine important considerations in the selection of the proper type of business entity for the business, describe the purpose and benefits of a buy-sell agreement, and analyze ways of saving estate taxes and income taxes upon the

transfer of a closely held business.

Presented by Eric A. Smith, ATP, CFP, CLU, ChFC, CRPC

Form 709: The Gift Tax Return

Tuesday, November 7, 2017

2:00-4:00 pm (EST)

IRS CE: 2 Hours/Federal Tax Law

NASBA CE: 2 Hours/Taxes

[Register](#)

Often ignored by the unwitting taxpayer and overlooked by the practitioner, gift tax returns are left unfiled. Find out when these returns are due and how to prepare them.

This webinar will take an in-depth look at a hypothetical client who has made multiple gifts over a period of years and now seeks your help to comply with all tax reporting requirements.

Presented by Monica Haven, EA, JD

The ABCs of FLPs (Family Limited Partnerships)

Thursday, November 9, 2017

2:00-4:00 pm (EST)

IRS CE: 2 Hours/Federal Tax Law

NASBA CE: 2 Hours/Taxes

[Register](#)

Family limited partnerships have become both a popular entity to preserve family owned businesses as well as a target for IRS scrutiny.

This webinar will examine the structure of a family limited partnership, the tax and non tax benefits to establishing such an entity, as well as update on IRS rule and Tax Court decisions on family limited partnerships.

Presented by T. Joshua Wu

GST: The “Grandparent” Tax

Tuesday, November 14, 2017

2:00-4:00 pm (EST)

IRS CE: 2 Hours/Federal Tax Law

NASBA CE: 2 Hours/Taxes

[Register](#)

Generation-skipping Tax (GST) is imposed on a direct transfer of property to a grandchild that might otherwise be subject to two levels of estate taxation. Transfers made during lifetime are reported on Form 709; skips made at death are reported on Form 706 – thus, the GST cannot be escaped whether in life or after death! Or can it?

Find out how direct skips, trust distributions and terminations are taxed; then discover GST minimization and avoidance strategies that work.

Presented by Monica Haven, EA, JD

Circular 230 and You: Real World Look into Circular 230

Wednesday, November 15, 2017

2:00-4:00 pm (EST)

IRS CE: 2 Hours/Federal Tax Law

NASBA CE: 2 Hours/Taxes

[Register](#)

Most tax ethics courses take a high level theoretical approach to teaching ethics. In this course, former OPR attorney, Nick Preusch, will provide a more contextual approach to Circular 230 and other related tax ethic issues such as practitioner penalties.

This webinar will feature real world examples of violations of Circular 230, how the examples were resolved and what practitioners can do to avoid such breaches in ethics.

Presented by Nicholas Preusch, CPA

Gambling and Taxes: The Price of Winning

Thursday, November 16, 2017

2:00-4:00 pm (EST)

IRS CE: 2 Hours/Federal Tax Law

NASBA CE: 2 Hours/Taxes

[Register](#)

Most states now have some form of legalized gambling. As a result, more and more people have gambling winnings or losses. Unfortunately, not all taxpayers maintain adequate records of wins and losses and become subject to IRS audits.

In *Gambling and Tax: The Price of Winning*, Robert E. McKenzie gives you an in-depth look at how gambling winnings and losses affect taxation. You'll learn which winnings are taxable, which losses are deductible, and who needs to report. Case studies are used throughout the course to illustrate specific Tax Court rulings. The forms on which income is reported are also covered, with instructions on where to input necessary information from various gambling activities.

Presented by Robert McKenzie, EA, ESQ

The Art of Appraisals: Appraising for Tax Purposes

Tuesday, November 21, 2017

2:00-4:00 pm (EST)

IRS CE: 2 Hours/Federal Tax Law

NASBA CE: 2 Hours/Taxes

[Register](#)

Assigning values – for income or estate tax purposes, separation agreements or business mergers, insurance and depreciation calculations – can be challenging and the results are indeed often challenged by the tax authorities.

This webinar examines valuation methodologies, contribution rules and restrictions, qualified appraisals, art appraisals, and fraudulent schemes.

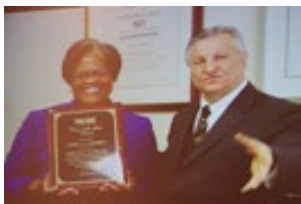
Presented by Monica Haven, EA, JD



NSA HONORS 2017 AWARD WINNERS IN RENO

Each year accounting and tax professionals who made significant contributions to the accounting profession are honored by the National Society of Accountants (NSA).

This year several individuals received awards at the 72nd NSA Annual Convention in Reno, NV. Several NSA Affiliated State Organizations (ASOs) were also presented with major awards.



Director Campbell receives the Person of the Year Award from NSA's 2016-2017 President, Al Giovetti

Person of the Year: Carol A. Campbell, Director of the IRS Return Preparer Office

This prestigious honor was bestowed upon Carol Campbell, Director of the Internal Revenue Service (IRS) Return Preparer Office prior to the Annual Convention. Campbell was instrumental in working with NSA on developing the IRS Annual Filing Season Program, which resulted in the IRS recognizing the value of Accreditation Council for Accountancy and Taxation (ACAT) credentials. She also worked with NSA on other important tax-related issues.



Accountant of the Year

One of NSA's highest honors was presented to Sally Levitt, EA, PA, ATA, ABA, of Levitt Financial Services in Shawnee, KS for outstanding achievement and service to NSA and the accounting and tax profession. Levitt has been a state director, served her state society, and served on several NSA Committees, including as Chair of the Awards Committee and on the Right to Practice Committee.



Distinguished Service Award

Presented to Mary Lemons for significant and exemplary contributions for the betterment of NSA and its membership, as well as the accounting profession. The award recognizes continuous service, loyalty, and dedication to NSA. Lemons graduated from the NSA Leadership Program in 2010, joined the Leadership Committee and became the Administrative Chair for Leadership in 2012 for two years. She then became the Governance Administrative Chair and has served in that position for three years. Lemons has also served as State Director for the Montana Society of Public Accountants since 2012.



Speaker of the Year Award

This award recognizes outstanding NSA continuing education presentations. The winner was Kathy Hettick, EA, ABA, ATP, of Hettick Accounting in Enumclaw, WA. Hettick has been a presenter for NSA since 2010 at the Nationwide IRS Tax Forums, where she has consistently earned top honors and high marks from IRS Tax Forum attendees. She also presents webinars for NSA as part of the NSA ConnectED webinar series, bringing her popular tax forum sessions and other topics to NSA members nationwide.



ASO of the Year Award

Recognizes the significance of our affiliates to NSA, is one of our most sought after awards. This special award was created in 2000 to honor the overall achievements of an ASO and its work in promoting and implementing NSA programs. The Wisconsin Association of Accountants was named ASO of the Year for its overall achievements and promoting and implementing NSA programs. Its programs in membership recruitment, member services, seminar and education sponsorship, and legislative activity combined with the financial stability of the organization helped earn the award.



Norma Kraus Award

This award, given to the best State Director, was presented to Andrew Piernock Jr., ATP, of Piernock Accounting Services in Philadelphia, PA. He was praised for his dedication in attending NSA events and his affiliated state organization events and participating on a number of important committees.

Young Professional of the Year Award

The winner of this award was Kevin Hettick. He served as his Affiliated State Organization President, co-chairing its legislative committee, and was very active in monitoring his State Board of Accountancy. Hettick was also instrumental – even though a CPA himself — in working with his State Board of Accountancy to allow CPAs to work in non-CPA firms.



Keith Billings Memorial Award

This award is given in memory of Keith Billings, a mainstay of the original NSA Editorial Review Committee. The award recognizes the most outstanding ASO publication based on content, coverage of activities, timeliness of articles, newsletter format and overall appearance.

Two winners were recognized: the Public Accountants Association of Kansas for its *Kansas Public Accountant* publication and the North Carolina Society of Accountants for its *The Accountant* publication.

National Editorial Award

This award is given annually for the best individual article appearing in a state publication of an Affiliated State Organization. The winner was Tammy J. Pachta of Manhattan, KS for her article, “Glossophobia,” which appeared in the *Kansas Public Accountant*. Glossophobia is the fear of public speaking, and the article gave practical tips that introverted accountants can use in their practice and profession.

Outstanding Tax Talker Award

This award recognizes an NSA member for their exceptional participation on the NSA Tax Talk, an online and email discussion forum that members often cite it as one of the NSA benefits they value most. The award went to Howard W. Bleiwas of Pomona, NY, who has a knack for contributing knowledge about the practical side of tax planning and preparation, and doing so with a sense of humor.



Accountancy Board Monitoring

Given to ASOs that have met criteria established by the Right to Practice Committee relative to monitoring state accountancy boards. The ASOs awarded in 2017 are:

Alaska Society of Independent Accountants	Nebraska Society of Independent Accountants
Arkansas Society of Accountants	North Carolina Society of Accountants
Arizona Society of Practicing Accountants	North Dakota Society of Accountants
Hawaii Association of Public Accountants	Virginia Society of Tax & Accounting Professionals
Independent Accountants Association of Illinois	Washington Association of Accounting and Tax Professionals
Public Accountants Association of Kansas	Wisconsin Association of Accountants
Maryland Society of Accounting & Tax Professionals	

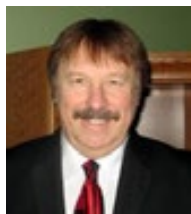
NSA SCHOLARSHIP FOUNDATION 2017-2018 BOARD OF TRUSTEES

The National Society of Accountants (NSA) Scholarship Foundation announced its 2017-2018 Board of Trustees.

A funding resource for career development, lifelong learning, educational programs, and the future, the NSA Scholarship Foundation works to build career paths into and within the accounting profession. With its scholarship awards, the Foundation assists dedicated students who are committed to a career in accounting by providing financial assistance to support their education. In 2017, The Foundation awarded over \$37,950 to 30 deserving students. Formed in 1969, the Foundation is a 501(c)3, tax-exempt organization and relies on voluntary, tax-deductible contributions to support its programs.



Sharon E. Cook, EA, ABA, ATA, ATP, ARA of Kuenne Accounting & Tax, Inc. in Saint Louis, MO continues as President.



Harlan D. Rose, EA, ABA of Data Flow Corporation in Marshfield, WI continues as Treasurer.



Donny J. Woods, EA, PA, ATA, ABA of Woods & Woods, PA, Ltd. in Nashville, AR continues as a Trustee.



Sandra Rene' Hall, EA, ATP of S.H.P. Inc. in Enid, OK continues as a Trustee.



Terry Bakker, EA of O'Leary's Tax Service Ltd. in Vancouver, WA was appointed to the board as a new Trustee.

Paul Bowman, EA, ATA, ABA, ATP of Bowman Accounting, Inc. in Rock Island, IL was appointed to the board as a new Trustee.



Joel Grandon, LPA, EA, ARA, of Joel Grandon Accounting Services, PC, in Marion, IA is a new Trustee by virtue of his position as Second Vice President of the National Society of Accountants.



John G. Ams, NSA Executive Vice President, continues as an ex-officio member of the Board of Trustees by virtue of his position as the chief staff executive of NSA.

For more information about the NSA Scholarship Foundation, visit www.nsacct.org/about/nsa-scholarship-foundation.

TECH TOPICS



Ten (Strike That) Eleven Tips for Accountants to Secure Data and Why

Wade Yeaman

We've given you 11 tips for the price of 10!

Accountants work for firms that serve clients, have solo practices that serve individuals, work for corporations that serve management, etc. To simplify the discussion, I will use the term "client" to refer to those you serve.

#1. Know your data

You already know handling and being responsible for sensitive and confidential financial data requires additional security and diligence, but what about the things you don't know. Many accountants provide services to clients in the healthcare industry; this could be a single practice doctor's office, hospital, or even a company that provides medical billing services. In most cases, you will likely have some ePHI (electronic personally identifiable information) as defined by HIPAA and as such you, as the accountant, must also be HIPAA compliant. Even if it is just one of the 18 identifiers (see details after all the tips) such as a name or account number, you must be compliant with HIPAA and you must have a Business Associate agreement with the client. A similar case could be made for a client processing credit cards and the requirement to be PCI compliant.

Knowing your data is more than just knowing the financials, it's knowing what type of data you have for each and every client and taking the necessary steps to protect it. Ignorance is bliss and also very dangerous. Conduct an assessment and risk analysis on your data to close the gap and know what data you have, then take the necessary steps required to protect it.

#2. When in Doubt, Encrypt

Many people inherently know that sensitive financial data should never be shared without protecting it from the bad guys. This often means ensuring the data is encrypted any time it is moved. This is not just encrypting the data to and from your office, it includes ensuring it is encrypted throughout the journey the data travels. Many accountants have clients that

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use QuickBooks in the cloud where the client accesses the data from their office and the accountant accesses from their office. The data is often also transferred between the client and the accountant directly. They also may be software integration with a third-party solution for payroll processing, etc. The data must be encrypted between all parties when it is transferred to and from each location – cloud, client, third-party, and accountant. Furthermore, if the accountant uses help from a temporary employee or contractor who works from home, there is now another path that must be encrypted.

I am surprised I still have to say this in 2017 – email is not encrypted and many accountants still use email to send financial data, spreadsheets, PDF's, etc. This is not safe or secure. Rather than sending the data in email, use other encrypted file sharing solutions such as Microsoft OneDrive, Box or Dropbox for Business. If you must email, ensure you encrypt the email, which is often as easy as putting “[encrypt]” in the subject line of the email. That is only if your email solution has encryption, which is often an add-on feature with a cost. If you don't know, ask your email provider.

Lastly, encrypting data when it is being transferred from one place to another is just covering it when it travels. What about when the data is sitting at rest on your systems. Accountants often used cloud based accounting systems and store financial data in the cloud and on the end users computer, even if just temporarily. Encrypting the data ‘at rest’ on any system holding the data adds an additional layer of protection and can be required, as is the case with HIPAA.

#3. Backup, Backup, Backup

Everyone has accidentally deleted a file and needed to pull a copy from backups. Again, having data backups of critical data is very intuitive requirement, but often the person responsible for the data does not know how the data is being backed up and for how long (the retention period) or if the data itself is actually valid. If you have every tried to restore a file only to find it corrupted, you have felt the pain. Regular periodic restore of random files to verify they are usable is a good practice.

With the increase in malicious viruses and ransomware, it is more important than ever to ensure you not only have good backups in multiple places, but backup retention long enough to meet business requirements. Accountants should always have two backup locations – onsite and offsite. Onsite backups offer the most expedient option to restore data, but they may

HIPAA IDENTIFIERS

1. Names
2. All geographic subdivisions smaller than a state, including street address, city, county, precinct, ZIP code, and their equivalent geocodes, except for the initial three digits of the ZIP code if, according to the current publicly available data from the Bureau of the Census:
3. (a) The geographic unit formed by combining all ZIP codes with the same three initial digits contains more than 20,000 people; and
4. (b) The initial three digits of a ZIP code for all such geographic units containing 20,000 or fewer people is changed to 000
5. All elements of dates (except year) for dates that are directly related to an individual, including birth date, admission date, discharge date, death date, and all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older
6. Telephone numbers
7. Fax numbers
8. Email addresses
9. Social security numbers
10. Medical record numbers
11. Health plan beneficiary numbers
12. Account numbers
13. Certificate/license numbers
14. Vehicle identifiers and serial numbers, including license plate numbers
15. Device identifiers and serial numbers
16. Web Universal Resource Locators (URLs)
17. Internet Protocol (IP) addresses
18. Biometric identifiers, including finger and voice prints
19. Full-face photographs and any comparable images
20. Any other unique identifying number, characteristic, or code

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not always be usable. In this case offsite backups come into play as the last resort to retrieving the information. In the case of ransomware, the hacker has locked the data files and demanding money, which increases each hour or day, to obtain the keys to unlock the files. Having good backups can literally save your business. This is where a good retention policy comes into play. Financial data becomes very stale even after one day, so data backups may only be kept for a week or two. Viruses and ransomware can infect a system and remain in place and idle for a week or even months. When the ransomware hits, you must restore backups from before the files were locked and infected. Having a well thought out retention period that allows you the option to go back farther if needed is a great practice. Restoring financial data a month old seems ludicrous in the accounting world, but if it is your ONLY good data it may be better than having no data. Backups cost money, so the retention period should be well thought out based on your data and your business needs. One example of a retention period specifically defined to meet a business need – one day of hourly backups, 13 days of daily backups, one month of weekly backups, and 4 months of monthly backups. If data must be restored, the process is to work from the most recent back – newest to oldest, until you can retrieve what you need. In most cases, one of the hourly backups in the first 24 hours will suffice, but if you have to go further back you know you have two weeks of daily backups and so on.

Tech Tip: Make sure backups are disconnected once they are finished. Backups that are connected to your network continuously can be infected by the same ransomware that infect the initial machine and network.

#4. Manage Your Data

Managing data is a very tedious and laborious task, which means it often is not done. Data is like a weed, growing relentlessly if left unchecked. It also lowers productivity for you and your staff having to sift through all the irrelevant data files. Reviewing all your data on a regular basis and ‘cleaning’ it by deleting unneeded files and those irritating duplicate files will help keep your data in check while also giving you the peace of mind that you are not overspending for storage and keeping only important data. This can be tricky for accountants because financial data may have requirements to be saved for 5, 7, 10 years, or even in perpetuity. However, that does not mean you need to keep all the non-restricted data, duplicates, old versions, or personal photos.

Conducting an annual data cleansing will do wonders for your sanity. It’s not fun, but it is rewarding. Again, you must know your data (#1) to know what to clean.

#5. When Using an External Data Device, use Caution

Using external data sources, even temporarily is very common. Whether an external hard drive or a USB “thumb” drive, connecting external data to your computer can be a very dangerous proposition. External drives are often used maliciously to spread viruses and ransomware. Just plugging it in without ‘opening’ a file can get you infected. Prevention goes a long way to avoid any problems. Know who you are getting the external drive from and ensure your anti-virus software will scan the device before loading it. Even if you know and trust the person providing it, there can be a virus they are unaware of. When in doubt, don’t plug it in.

#6. Automatic Logoff

It’s just good business practice, but especially when handling financial data, to have a system policy to automatically logoff users from systems after a period of inactivity. It may be frustrating from a productivity standpoint, but it is not worth the risk for a few added keystrokes. The amount of inactivity time should be defined based on the data being accessed (#1). If it is financial data with HIPAA information, you are required to have an automatic logoff process and 2-3 minutes of inactivity may be warranted. For other systems 5-10 minutes may be sufficient. To be clear, this is any system you access that has sensitive data. For example, you arrive in the morning and log into your computer and immediately open QuickBooks, Dropbox, and Outlook, each one containing sensitive information. All three systems should be set to automatically logoff after some period of inactivity.

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#7. Lock Your Computer

This one is easy, but often overlooked and undervalued. How many times have you left your desk to fill up the coffee cup and left your computer on with all the windows open and visible? After all, what harm could it be to be away for only 2-5 minutes? Then when getting coffee a coworker comes in and you end up having a 10 minute conversation. Now your computer has been open and accessible to anyone that wanders by for 15 minutes, which is eons for someone wanting to do serious damage. Get in the habit of locking your computer every time you leave it unattended; whether 2 minutes or 2 hours, lock the machine. It's quick and easy to do and should become common practice for all employees. If you use Windows 10, you can press and hold the key with the windows icon while pressing the L key. For older versions of Windows you can press Ctrl-Alt-Del and choose Lock. You will be required to log back in when you return, which may cause some brief irritation, but well worth the effort.

#8. Access Authorization & Controls

If you have access to multiple systems with financial data and/or you have multiple people that have access to the data, having access controls is an important part of data security. Access authorization begins with creating a policy to define the company's initial right to access sensitive information and further define the access rights of individuals to access sensitive information based on the job's role or function. The parameters of the policy should consider providing the minimum access required to perform a job function, along with separation of duties. In a large accounting organization you may have a person or team responsible for invoicing, a team for accounts receivable, and a team for closing month-end. Each group should be given access to only the data they require to do their job. You would not give the accounts receivable team full access to all financial data when they do not need it to perform their duties.

Access control is the ability to provide, revoke, monitor, and manage access given to individuals. The individual requesting access should first be verified as approved based on job function. This would typically be done by the Security Officer or HR using a signed form. Systems management and processes can then be used to provide the access, monitor usage, provide audit logs, and revoke access as necessary. Having this level of control will provide the critical information necessary to know how your data is being accessed, by whom, and when. In the event of a breach, not having this information only introduces additional risk and potential fines.

#9. Know Your Credentials

It is very common, if not ubiquitous, for accountants to rely on a third-party for IT services and support. Whether it's an internal IT department, an IT services provider, or a software vendor providing a solution, you are reliant upon them to have stable, reliable systems, and support. Unfortunately, many times that reliance includes them having administrative access credentials (ID's and passwords) to your critical systems. You may not need to know the administrative credentials to all systems, but you should know them for critical systems you are responsible for. This is not so you can play IT guy and make changes, but good business practice in the event your IT vendor/provider is unavailable, terminated, resigns, etc. Trying to track down that last IT guy to get the information can be very time consuming, frustrating, and maybe impossible depending on the circumstances. Make sure you have the administrative credentials at all times stored in a safe place, which is not in your contact list or on a Post-It note. Better a file in a locked file cabinet or password management system (#11). You also need to make sure the IT provider knows to inform you if and when the credentials changes so you can update your information.

#10. Know Your Vendors Security

This one can be a bit challenging, but well worth the time and effort. It is very common today to use software and solutions from many different vendors/providers, many of them cloud providers. If you use Dropbox, QuickBooks Online, Microsoft Office 365, Salesforce, etc. you are in the cloud. Large cloud providers like Microsoft Azure and Amazon Web Services (AWS) come with some basic security, but it may not be enough to meet your requirements, like encryption at rest, which is an added

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feature you must purposely deploy. Do you know what security each of them have in place to secure your data? Is it encrypted during transit and at rest (#2)? Is extra anti-virus protection in place where needed? If you don't know, ask them. If they can't or won't tell you it's time to look for another vendor. This is especially true if you have any compliance requirements like HIPAA or PCI.

#11. Securing Your Passwords

We are now in a subscriber economy with software application sprawl, where instead of accessing one or two systems on 'our server' we are accessing many applications hosted in multiple locations. Using myself as example, I use different cloud based solutions for email and MS Office, accounting software, customer relationship management software, billing software, practice management software, file sharing; along with tangential accounts for LinkedIn and other sites used in business. There are another 3-5 cloud solutions our operations staff use. As a result, I have a minimum of 8-10 ID's and passwords to manage, and some of those require password changes every 60 days. Hidden tip: requiring password changes to critical systems every 30, 60 or 90 days is a very good security practice. But I digress. If I add my personal ID's and passwords the number balloons to over 20. So the real world challenge is how to keep up with all this sensitive information without forgetting it, while also keeping it secure. So how do we secure all those passwords and keep our sanity? For all of you who store your ID's and passwords in your Outlook Contacts, your Notes or in a Word or Excel document, that is not a good answer because every one of them is not secure. A much better solution is to use a password management solution to help keep it all safe and secure. Yes, the password management software will itself require an ID and password, but it's only one to remember and the good solutions will automatically ask to save any changes to passwords you make to any of the included systems. It's human nature to use the same password for multiple systems and rotate the same 3-4 different passwords when you change them. It helps to remember them, but it is a gold mine to hackers. PCCP! Protect, change, complex, passwords!



About the Author:

Wade Yeaman, with more than 20 years of experience in business and information technology, Wade founded [Fluid IT Services](#) because he passionately believes that small and medium businesses deserve the same technology support services that big companies enjoy. He attended Texas Tech University. When Wade isn't working with his favorite people (that would be Fluid staff and clients), he can be found fly-fishing or playing his guitar.



Prepare for the worst.
CYBER LIABILITY INSURANCE



Forrest T. Jones & Company is offering accounting and tax firms of all sizes protection at an affordable price. Our small business cyber protection plans start around \$750 depending on your revenue. The application is easy and we will guide you all along the way. You can sleep easy knowing we only work with A+ (Superior) rated carriers. Any network can be compromised, so take the first step in protecting yourself and your firm by calling Ronda at FTJ: 1-800-821-7303 ext.: 1556 or send us an email at rjones@ftj.com.

Legislative Link



John Ams
Executive
Vice President

Appeals Office To Return To In-Person Conferences

IRS Appeals will revert to accommodating taxpayers who want in-person conferences rather than phone conferences, according to Andy Keyso, acting deputy chief at the Internal Revenue Service Office of Appeals.

“Step one is going to be for field cases to turn the decision back over to taxpayers,” Keyso said at the American Bar Association tax section meeting in Austin, Texas. “Do you want an in-person conference? If so, you’ll get it.” Step two is to include campus cases. Currently, Appeals is unable to offer in-person conferences for smaller cases that are worked out of the IRS campuses, Keyso said. Field cases include audits by a field revenue agent or office examiner, while campus cases include correspondence exam cases, according to Keyso.

The IRS has six campuses around the country, according to Keyso. He said there’s a mismatch between where IRS employees are and where they should be, because it’s unlikely that a taxpayer is going to be near one of those campuses. Keyso also said the campus buildings don’t have conference facilities. “For campus cases, we have some adjustments to make internally before we can do that,” Keyso said, adding that in the long term IRS Appeals has to realign its workforce, “which is difficult to do right now.”

The IRS will issue guidance to employees about the in-person conferences, Keyso said. The guidance will include information on what IRS employees need to be prepared for taxpayers in field cases who want in-person conferences as well as issues with campus cases.

PTIN Renewal Season

IRS officials are preparing to begin the PTIN renewal season at some point between the middle of October to the beginning of November. An exact date will be announced soon.

At this point, there will be no fee for either a new or renewed PTIN as the result of a recent court decision. However, the IRS is appealing the decision, which found the IRS cannot legally charge a fee for the PTIN, and has also asked the court to allow the agency to continue to charge the fee until the appeal is decided. The court has not indicated when it would decide whether the IRS can charge the fee in the interim.

Agency officials also want to remind PTIN holders that the information used to register for or renew a PTIN is public, including the email address. The email address used for PTIN purposes must be regularly monitored but does not have to be the same email address used by the PTIN holder for business purposes.

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Legislative Link



John Ams
Executive
Vice President

Power of Attorney Must Specify Returns Covered by Representation

A power of attorney form must specify each return that a taxpayer's representative is authorized to discuss with the IRS regardless of whether other returns are attached to the form.

The taxpayer's representative won't be able to discuss with the IRS a civil penalty associated with an international information return (IIR) attached to an income tax return unless Form 2848, Power of Attorney and Declaration of Representative, lists the IIR in addition to the income tax return, the Office of Chief Counsel said in a chief counsel advice memorandum (CCA 201736021) dated August 1, released Sept. 8.

"We recognize that the current form instructions are not a paragon of clarity on this issue," the office said.

"It might be useful to amend the form instructions to specifically provide whether penalties associated with forms that are or should be attached to a certain 'parent' tax return are within the scope of representation if line 3 of the Form 2848 lists only the parent form," the office added.

[The CCA is available here.](#)