It is hard to believe that the holiday season is upon us. Tax season is only a few short weeks away. Even though the IRS announced that the 2014 tax filing season, which was scheduled to begin on Jan. 21, 2014, will be delayed approximately one to two weeks as a result of the recently-concluded federal government shutdown, we have to be prepared for a challenging busy season.

The federal government shutdown occurred during the peak time the IRS uses to prepare its systems for the upcoming filing season. More than 50 IRS systems have to be programmed, tested, and deployed so they can handle the processing of nearly 150 million tax returns. Further delays are possible if another government shutdown materializes in 2014.

When legislators agreed on Oct. 16, 2013 to end the shutdown, they voted to fund the federal government through Feb. 7, 2014, which means that they likely will have another budget clash in January 2014. The only thing we know for sure is that there will be a tax season, and the due dates for filing returns are not going to change.

November was another productive month for the Suffolk Chapter. Here is a recap of some recent chapter events:

On Nov. 7, the Estate and Financial Planning Committee held a seminar covering Asset Protection Techniques.

Nov. 14 was the date of The Young CPAs' joint event with the Nassau Chapter. Attendees left the event with some great methods to improve their public speaking skills.

The Suffolk and Nassau Chapter joined with the

(continued on page 2)
President's Message
(continued from page 2)

Attorney/Accountant Networking Group to hold a networking event on Nov. 26. The event also served as a food collection for the benefit of Island Harvest.

There are several events planned to round out the year. The Estate and Financial Planning Committee is holding an Elder Law and IRA Planning update on Dec. 12. The Tax Committee will be holding its all-day Annual Tax Conference on Dec. 14.

The Toys for Tots pickup will take place at the office of Sheehan & Company, CPA P.C., on Dec. 13. As one of the largest pickups in the state, this an amazing sight.

The chapter is a great way for CPAs to enhance their careers and network with other professionals. I encourage you to review the calendar of events and attend some of the chapter’s upcoming events.

As always, please contact me, at the address below, or any of the other board members or committee chairs to get more involved in the chapter. I wish you a wonderful year ahead and hope this year brings you joy, good health and success in your career.

~ Larry Lucarelli
Special Offers from the Suffolk Chapter

SPONSORSHIP PROGRAM
Here’s your chance to make the most of your membership! Sponsor one of our events and get in front of colleagues, referral sources, and potential clients.

Step One: Choose an event.
- golf outings
- networking events
- technical workshops
- informational seminars
- charitable events

Step Two: Become a sponsor. At a cost of $1,000 you receive:
- recognition in the Suffolk Chapter newsletter
- logo/recognition in all event flyers
- opportunity to speak at the event
- booth or table display space

To take advantage of this great offer, contact our Sponsorship Chair:
Thomas S. Pirro: (631) 472-7637; tpirrocpa@optonline.net

2013-14 SUBSCRIPTION PLAN
Become a subscriber and save as much as $300 on meetings! The tremendously discounted price of $99 covers the following chapter meetings:

- September 2013: Banker/CPA Event
- October 2013: Student Night
- October 2013: Town Hall Meeting/Ethics panel
- January 2014: Not-for-Profit Event
- January 2014: Banker/CPA Event
- May 2014: To Be Determined

Act now to get the full savings! Contact the Suffolk Chapter Treasurer:
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Please make checks payable to NYSSCPA Suffolk Chapter and mail to:
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165 Orinoco Drive
Brightwaters, NY 11718

December 2013
A Seller’s Remedy, but with Potentially Harsh Rules and Limitations

By Stuart I. Gordon and Matthew V. Spero | Rivkin Radler LLP

Nearly a decade ago, Congress amended the U.S. Bankruptcy Code to add a new section that was intended to benefit sellers of goods to failing or financially distressed companies. Under this new provision, Bankruptcy Code Section 503(b)(9), a seller of goods is entitled to an “administrative expense claim,” for the goods sold and received by the buyer in the 20 days before the buyer’s bankruptcy. This administrative expense claim gives the seller priority over other general, unsecured creditors. Although the specific statutory section is quite brief, there are a number of important issues that sellers must keep in mind to be able to rely on Section 503(b)(9) – and a number of important questions involving Section 503(b)(9) that still bedevil the courts.

The Statute
Bankruptcy Code Section 503, which is entitled “Allowance of Administrative Expenses,” lists nine kinds of expenses that bankruptcy courts must allow as “administrative expenses,” which entitles the creditor holding such an expense to priority of payment. One of those expenses is described in Section 503(b)(9), which was added to the Bankruptcy Code by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. The text of Section 503(b)(9) seems quite clear. It provides that:

[...] after notice and a hearing, there shall be allowed administrative expenses... for the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business.

Thus, the statute authorizes an “administrative expense” priority claim for a seller of “goods” that are “received” by a debtor within “20 days” before the debtor’s bankruptcy filing in the “ordinary course” of the debtor’s business.

Certainly, much of this section – for example, the “20 days” and “ordinary course” requirements – seems rather clear. A surprising amount of litigation, however, has arisen over other provisions of this section. In particular, courts continue to struggle with the question of whether a seller has been selling “goods” within the meaning of Section 503(b)(9) and whether the goods that were sold were “received” by the debtor. Neither “goods” nor “received” are terms that are defined in the Bankruptcy Code.

What are Goods?
In many cases, it is clear whether or not a seller is selling “goods” to a
A Seller's Remedy

buyer. For example, “services” are not goods and, therefore, the provision of “services” does not qualify a creditor for a Section 503(b)(9) administrative priority.

Although the Bankruptcy Code does not define “goods,” the Uniform Commercial Code does. It states that, generally speaking, goods are “all things . . . which are movable at the time of identification to the contract for sale.”

This definition, however, can still present difficult issues. For example, recently, the U.S. District Court for the Southern District of New York directed the Bankruptcy Court to further consider whether electricity sold by a vendor to a debtor qualified as “goods” for purposes of Section 503(b)(9). In its decision, the District Court noted that in the Section 503(b)(9) context, courts are in essence evenly split on whether or not electricity is actually a “good”.

Rulings such as this make it clear that creditors seeking to rely on Section 503(b)(9) may do so only where they have in fact supplied “goods” to the debtor.

When Does the Debtor “Receive” Goods?

Another issue involving Section 503(b)(9) that continues to arise in the bankruptcy courts with some frequency is whether a debtor has “received” the goods sold by the vendor. Where goods are shipped and delivered to the debtor’s warehouse or other facility, the goods certainly are “received.” But the debtor’s receipt is not as clear where a supplier “drop ships” goods purchased by a debtor directly to the debtor’s customers.

In one case, decided last August, the District Court of New Hampshire granted an administrative priority claim to a paper company that sold and shipped goods to the debtor purchaser itself. However, the Court denied the seller an administrative priority claim for goods that it drop shipped directly to the purchaser’s customers.

Given these and similar rulings, vendors that are aware of a purchaser’s financial extremis but willing to continue dealing with the purchaser might consider avoiding drop-shipping goods directly to the purchaser’s customers.

Questions of Timing

In addition to the 20 day requirement contained in Section 503(b)(9), sellers seeking to assert a 503(b)(9) claim must keep all filing deadlines in mind. Some bankruptcy courts may impose specific deadlines for creditors to file Section 503(b)(9) claims; in other instances, a claim under Section 503(b)(9) may have to be filed with all other claims before the claims “bar” (continued)
date” (i.e. the deadline to file claims against the debtor).

Whatever the case, meeting the deadline is a crucial requirement to be able to assert a Section 503(b)(9) claim. Several years ago, one court denied a Section 503(b)(9) claim to the Goodyear Tire & Rubber Company when it determined that Goodyear had filed its Section 503(b)(9) claim too late.

The important message is that each case – and each court – may have different unique circumstances and requirements, and these deadlines should be assessed and followed so that 503(b)(9) creditors do not waive their rights.

Trade creditors with a claim against a bankrupt company may find more success by asserting a Section 503(b)(9) claim than by trying to “reclaim” the goods they have sold, especially where those goods have been resold or cannot be identified (because, for example, they have been co-mingled or fabricated.) It is important to keep in mind, however, that even where a creditor is able to meet all of the requirements of Section 503(b)(9), the creditor only will have an administrative priority claim that the bankrupt debtor may – or may not – be able to pay. Where a bankruptcy estate is “administratively insolvent,” or where the bankruptcy court authorizes a “super priority” administrative priority claim that trumps a Section 503(b)(9) claim, the vendor may find that it is in the same position as the debtor’s other unsecured creditors. Still, it is clear that Section 503(b)(9) offers vendors certain advantages, and a supplier that invokes Section 503(b)(9) may be able to put itself in a more favorable position than general unsecured creditors.

For further information about Section 503(b)(9) claims or about bankruptcy issues in general, please contact Mr. Gordon at (516) 357-3055, stuart.gordon@rivkin.com or Mr. Spero at (516) 357-3593, matthew.spero@rivkin.com.
On Thursday, November 14, the Suffolk and Nassau Young CPAs held a joint technical event “Power Up Your Public Speaking.” The event was held at the offices of Marks, Paneth, & Shron. Our speaker for the evening was Marla Seiden, President of Seiden Communications, a full service public relations firm.

In this interactive workshop, participants received tips on how to improve public speaking skills and become powerful presenters. Marla stressed how important it is to conquer the fear of public speaking (which is often cited as the number one fear in America) and that in doing so young professionals will have the confidence to excel as their careers progress.

To break the ice, several volunteers participated in saying the phrase “I can’t believe it” stressed in six different styles to portray scenarios that the audience had to guess. We also learned style tips from a short clip of world champion public speaker Ed Tate. To close out the workshop, three volunteers made short presentations using the tips we had learned in the course. The exercises proved to be a fun way to learn and provided a relaxed environment to give feedback to those who volunteered.

Marla’s enthusiasm for her trade made for an enjoyable evening for all who attended.

On November 7, the Estate and Financial Planning Committee conducted a program on “Recent Asset Protection Techniques that a Practitioner Needs to Know.” The morning event took place at Valley National Bank, Huntington Station. The instructors were Henry Montag, CFP, CLTC and Seymour Goldberg, CPA, MBA, JD, co-chair of the Estate & Financial Planning Committee.

The attendees enjoyed the program and the evaluations were great. This is the third program that was conducted at the Valley National Bank and we thank Savina Indelicato, Vice President of Valley National Bank for accommodating our chapter.
Catching Up With...

On November 19, the Suffolk Chapter Members in Industry and the Nassau Chapter CFO committees co-hosted a presentation on Corporate Governance of Private Companies. The session was held at the newly-relocated offices of Nawrocki Smith LLP in the Bank of America building in Melville.

Ernest Patrick Smith, CPA/CFF/ABV, CVA, CFE from Nawrocki Smith LLP and Ira P. Halperin, Esq., CPA from Meltzer, Lippe, Goldstein & Breitstone, LLP briefed the guests on the importance of effective corporate governance in privately held companies. The session covered critical corporate documents as well as appropriate internal controls. The speakers shared their professional experience working with clients offering suggestions for Chief Financial Officers and practicing certified public accountants to avoid potentially costly mistakes from both an economic and personal perspective.

Despite the session receiving excellent reviews, turnout from our Suffolk Chapter members was light. The Members in Industry committee would consider running this informational session again in 2014.

There will be a meeting of the Suffolk Chapter Not-for-Profit committee on December 12, 8 to 10 a.m. at Cerini & Associates, 3340 Veterans Hwy., Bohemia.

We will be doing “Stories from the Trenches.” GET INVOLVED! Please bring one or two financial statements (either issued by yours or another firm) so we can go through the various issues presented. Ken Cerini will be moderating the session.

We look forward to seeing you then.
Mark Your Calendar...

DECEMBER 12, 2013
Not-for-Profit committee meeting: Stories from the Trenches. Details on page 8.

DECEMBER 12, 2013

DECEMBER 14, 2013
Annual Tax Conference. Details on page 12.

JANUARY 7, 2014

JANUARY 9, 2014

JANUARY 30, 2014
Cooperation with Bankers and Other Credit Grantors committee meeting: An Evening of Networking with Special Guest Speaker John Lizzo, LIA Economist. Details on page 15.

For up-to-the-minute chapter activities: www.nysscpa.org
Search for the Suffolk Chapter under “About Us”
Elder Law and IRA Planning Updates

Thursday, December 12, 2013
8:00 – 10:00 a.m.
(7:30 a.m. Registration & Continental Breakfast)

at Courtyard by Marriott
5000 Express Drive South, Ronkonkoma, NY

Free! (Enrollment limited to the first 25 registrants.)

Speakers:
David R. Okrent, CPA, JD | Law Offices of David R. Okrent
Seymour Goldberg, CPA, MBA, JD | Goldberg & Goldberg, P.C.

Level: Intermediate
Prerequisite: Basic knowledge of estate planning
Method of Presentation: Lecture, questions and answers
Subject Area: Specialized knowledge and taxation
Learning Objective: To acquire knowledge on elder law issues and IRA issues

2 CPE Credits (Course code: 29086414)
Specialized Knowledge + Taxation

Name: __________________________________________
Firm: ___________________________________________
Address: ________________________________________
City, State, Zip: __________________________________
Telephone: ______________________________________
E-mail: _________________________________________

Please send registration form to:
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Goldberg & Goldberg, P.C.
20 Crossways Park North, Suite 412
Woodbury, New York 11797
516-222-0422
info.goldbergira@gmail.com

December 2013
Almost Time for Ho...Ho...Ho...

The Young CPAs Committee proudly announces the 19th annual

Toys For Tots Toy Drive

to benefit the U.S. Marine Corps’ Toys for Tots Program

The holidays are just around the corner! Please help us share the magic of the holiday season with the needy children of Long Island by participating in this year’s drive.

Promotional materials and drop-off boxes will be available in the beginning of November.

The ceremonial pick up of the toys by the USMC is scheduled for FRIDAY, DECEMBER 13TH at the offices of Sheehan & Company, CPA PC.

For more information regarding this wonderful event, please contact:

Cynthia Finn Barry, CPA
Sheehan & Company CPA PC
165 Orinoco Drive, Brightwaters, NY 11718
Telephone: (631) 665-7040; Fax: (631) 665-7014
Email: cbarry@sheehancpa.com
Talking Taxes...

The NYSSCPA Suffolk Chapter Tax Committee invites you to the

Annual Tax Conference

Saturday, December 14, 2013
8:30 a.m. – 4:30 p.m.
(8:00 a.m. registration)

at the Islandia Marriott
3635 Express Drive North, Islandia, NY

Members: $150 | Non-Members: $250
At door: Add $25

Conference Topics & Speakers:

• Federal Tax Update | Robert Katz, JD, LLM, Senior Partner, Katz, Bernstein & Katz, LLP
• New York State Tax Update | Timothy P. Noonan, Esq., Partner, Hodgson Russ LLP
• Baby Boomer’s Guide to Social Security | Daniel G. Mazzola, CPA, CFP, CFA, Registered Investment Advisor, American Portfolios
• FBAR and FATCA | Eric L. Morgenthal, CPA, Esq., Law Office of Eric L. Morgenthal, PLLC
• Executive and Deferred Compensation | Louis Vlahos, Esq., Lead Tax Attorney, Farrell Fritz, PC.
• Affordable Care Act Update | Kenneth Laks, CPA, MST, Principal, Albrecht, Viggiano, Zureck & Company, PC.

Participants will receive a FREE ADP-sponsored 2014 U.S. Master Tax Guide.
Orders will be taken at the conference, and guides will be delivered by ADP.

8 CPE credits (Course code: 28608425)

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City, State, Zip: __________________________________
Telephone: ______________________________________
E-mail: _________________________________________
NYSSCPA Member? Y/N  Member #__________

Please register:
Online: www.nysscpa.org
OR by Phone: (800) 537-3635
OR by Fax: (666) 495-1354
OR Mail the registration form to:
Foundation for Accounting Education
P.O. Box 10490
Uniondale, NY 11555-0490
The NYSSCPA Suffolk Chapter
Estate & Financial Planning Committee presents

Estate Planning for the Medium-Sized Client
(under $5 million)

Tuesday, January 7, 2014*
8:00 – 10:00 a.m.
(7:30 a.m. Registration & Continental Breakfast)

*SNOW DATE: January 14, 2014

at Citibank, N.A.
730 Veterans Memorial Hwy., Hauppauge, NY

Free! (Enrollment limited to the first 20 registrants.)

Speakers:
David R. Okrent, CPA, JD | Law Offices of David R. Okrent
Seymour Goldberg, CPA, MBA, JD | Goldberg & Goldberg, P.C.

Level: Intermediate
Prerequisite: Basic knowledge of estate planning
Method of Presentation: Lecture, questions and answers
Subject Area: Taxation
Learning Objective: To acquire knowledge on estate planning for the medium-sized client

2 CPE Credits (Course code: 29086415)
Taxation

Name: __________________________________________
Firm: __________________________________________
Address: ________________________________________
City, State, Zip: __________________________________
Telephone: ______________________________________
E-mail: ________________________________________

Please send registration form to:
Seymour Goldberg
Goldberg & Goldberg, P.C.
20 Crossways Park North, Suite 412
Woodbury, New York 11797
516-222-0422
info.goldbergira@gmail.com
Heating Up Your Networking...

The NYSSCPA Suffolk Forensic and Valuation Services Committee invites you to

Network in the Tropics (a.k.a. Hauppauge)

Thursday, January 9, 2014
6:00 to 8:00 p.m.

at the offices of
Albrecht, Viggiano, Zureck & Company
25 Suffolk Court, Hauppauge, NY 11788

$20 per person

Join us for our first networking event of 2014.

Dinner provided by
Tropical Smoothie Café
Wine and beer will be served.

For information: contact Wendy Valentino
wvalentino@cohengreve.com | (516) 877-1900

Name: _______________________________
Firm: _______________________________
Address: ___________________________
City, State, Zip: _____________________
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Please make checks payable to NYSSCPA
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485 Jericho Turnpike, Mineola, NY 11501
(516) 877-1900
FAX (516) 742-0122
wvalentino@cohengreve.com
Networking with Bankers...

The NYSSCPA Suffolk and Nassau Chapter Cooperation with Bankers and Other Credit Grantors Committees invite you to the

Annual Joint Nassau/Suffolk Chapter Meeting:
An Evening of Networking
with Special Guest Speaker
John Lizzo, LIA Economist

Thursday, January 30, 2014
6:00 – 8:30 p.m.

at Crest Hollow Country Club – Woodbury, NY
Networking | Cocktails | Buffet Dinner

Open to all NYSSCPA members, bankers, and other professionals

$60 in advance (cash or check)
$70 walk-in (not pre-registered)

RSVP required by January 16, 2014

Please make checks payable to NYSSCPA
Nassau Chapter and mail to:

Neal Korenberg, CPA
Castellano, Korenberg & Co., CPA’s, P.C.
313 W. Old Country Road
Hicksville, NY 11801
Phone (516) 937-9500
Fax (516) 932-0485
cpinto@ck-co.com

Name: __________________________________________
Firm: ___________________________________________
Address: ________________________________________
City, State, Zip: ___________________________________
Telephone: ______________________________________
E-mail: _________________________________________
I am a: _____ CPA _____ banker _____ other
Number of people attending: _____
Enclosed amount: _______________

Please attach a list of names/business cards if paying for more than one attendee:
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asexton@avz.com

SAEPA CONTRIBUTIONS AND EXPENSES 

December 2013
Name That Thing...

1. A. thimble  
   B. threader  
   C. tracer  
   D. hatpin

2. A. alternator  
   B. circuit board  
   C. commutator  
   D. cathode

3. A. fusilli  
   B. tortellini  
   C. rigatoni  
   D. penne

4. A. bell  
   B. receiver  
   C. mouth  
   D. nozzle

5. A. palate  
   B. uvula  
   C. cartilage  
   D. tonsil

6. A. fin  
   B. feather  
   C. tail  
   D. flight

7. A. compass  
   B. bevel square  
   C. protractor  
   D. heptagon

8. A. heel  
   B. bolster  
   C. guard  
   D. tang

9. A. tang  
   B. tine  
   C. slot  
   D. point

10. A. dorsal fin  
    B. pectoral fin  
    C. caudal fin  
    D. pelvic fin

SOURCE: merriam-webster.com
Get Involved and Help Make a Difference

COMMITTEE SERVICE APPLICATION

Thank you in advance for getting involved and ensuring the success of this chapter. Please rank the top 3 committees in which you have an interest:

___ Accounting & Auditing  ___ Forensic and Valuation Services
___ Community Affairs       ___ General Taxation
___ Construction Contractors ___ Golf Outing
___ Cooperation with Attorneys  ___ Management of Accounting Practice
___ Cooperation with Bankers and Other Credit Grantors  ___ Members in Industry
___ Cooperation with Educational Institutions ___ Membership Recruitment
___ CPE/Professional Development ___ Not-for-Profit & Government
___ Emerging Technologies ___ Public Relations
___ Employee Benefits ___ Real Estate & Construction
___ Estate/Financial Planning ___ Small Business
___ Social
___ Young CPAs

Name: ___________________________________________________________________________________
Firm: __________________________________________________________________________________
Address: _________________________________________________________________________________
City, State, Zip: __________________________________________________________________________
Telephone: _______________________________________________________________________________
E-mail: ________________________________________________________________________________

Please forward your response to: Lawrence Lucarelli, CPA • llucarelli@avz.com
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LOOK FOR THE NEXT ISSUE OF THE SUFFOLK CHAPTER NEWSLETTER IN JANUARY!