t’s time to celebrate! April 15th is around the corner and the Nassau Chapter is ready to help to fill your calendar with networking and CPE events and yes, celebrate!

For starters, April 25th is our first attorney/accountant networking event with the Long Island Community Foundation. Join us for a relaxing evening at their historic Gold Coast Mansion located at 1864 Muttontown Road, Syosset. Reception and tours of this historic home begin at 6pm followed by a CPE/CLE presentation at 7pm. This event is planned in cooperation with Farrell Fritz, P.C., Capell Barnett Matalon and Schoenfeld LLP, Martha Clara Vineyards, Nassau County Bar Association — Attorney/Accountant Networking Group, NCCPAP and our Chapter. Many thanks to all who are involved in planning this event.

If you have not registered yet for the May 9th 60th Installation Dinner, don’t delay! It’s going to be a fantastic evening of celebration! The theme is “Laugh, Dance and Donate”. Scott Sanders will be our guest of honor being installed as our 60th President along with the rest of the Nassau Chapter Executive Board. There will be a silent auction and part of the cost of your ticket will be donated to Island Harvest and the FAE Scholarship Fund for college students. It is an evening not to be missed. Please mark your calendar and visit our website for registration information.

May 22th, the Young CPA Committee, Co-Chairs, Carmelina Hernandez, Joshua Sechter and Bruce LaMarca, are planning an event with Becker Review Course “Tips and Tricks for Passing the CPA Exam” along with a technical review session on leases. They are meeting at Holtz Rubinstein Reminick LLP located in Melville from 6-8pm. Come and earn 1 CPE credit and learn from Becker experts important information about the CPA exam.

Looking ahead to June, we have our Annual Golf Outing at the North Hills Country Club in Manhasset on the 13th. Registration begins at 10:30 am for golf and the Shotgun begins at noon. Don’t miss the spectacular dinner which begins at 5:30pm and the amazing raffle prizes! This is a rain or shine date. Many thanks to Neal Korenberg and Carol Pinto from Castellano Korenberg PC for planning this event.

June 15th is our annual Ellen Gordon CPAs 4(a): Cause 5K Run/Walk. This year the location is Eisenhower Park (Field #1), East Meadow. Last year over 300 people attended and we are hoping to break that record this year. Registration begins at 7:30am and race start time is at 8:30am. We are hosting this event in cooperation with NCCPAP and the Financial Planning Association of Long Island. We encourage you to bring your family and friends to help us stamp out hunger on Long Island!

My year of Nassau Chapter President has been very rewarding. To me, it has been a year of progress. Our Chapter has grown with new events. I would like to thank the Executive Board members and all the committee chairs for their professional untiring efforts this year. I look forward to assisting Scott Sanders as the new President and my role as Past-President starting on May 9th.

Sincerely,
Lisa Haynie, CPA
President, Nassau Chapter, NYSSCPA
lisahaynie@kbtaxlaw.com

Blood Drive

The Nassau Chapter donated 42 pints of blood during the 2012 blood drive, some of which was collected by the blood mobile parked at Margolin Winer and Evens in Garden City.

At press time, this newsletter contained the most up-to-date information on meetings and events. Please check with a committee chairperson for any changes to scheduled events.
**Save the Date**

**Nassau Chapter**
~ Organizational Meeting ~
May 22, 2013
8:00am-10:00am
Milleridge Inn – Garden Room

**Save the Date**

**Taxation, Estate and Personal Financial Planning**
~ Joint Organization Meeting ~
June 5, 2013, 6:00pm
Farrell Fritz PC, 1320 RXR Plaza, Uniondale
Please RSVP Christine Hallahan at challahan@ck-co.com or Bob Schaffer at rschaffer@ck-co.com

**Save the Date**

**Real Estate Committee**
~ Organizational Meeting ~
June 5, 2013
8:30am-10:30am
Gettry Marcus Stern & Lehrer, CPA, P.C.
20 Crossways Park North, Suite 304
Woodbury, NY 11797 • 516-364-3390

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**Calendar of Events**

**April 2013**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>4/18</td>
<td>Thurs. CFO &amp; Financial Executives</td>
</tr>
<tr>
<td>4/19</td>
<td>Fri. Small Firm MAP</td>
</tr>
<tr>
<td>4/25</td>
<td>Thurs. Attorney/Accountants Networking</td>
</tr>
<tr>
<td>4/26</td>
<td>Fri. Practice Continuity</td>
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</tbody>
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**May 2013**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>5/7</td>
<td>Wed. 60th Annual Installation Dinner Dance</td>
</tr>
<tr>
<td>5/16</td>
<td>Thurs. CFO &amp; Financial Executives</td>
</tr>
<tr>
<td>5/17</td>
<td>Fri. Women's Focus Group Luncheon</td>
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**May 2013 con’t.**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>5/17</td>
<td>Thurs. Small Firm MAP</td>
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<tr>
<td>5/22</td>
<td>Wed. Young CPA Becker Meeting</td>
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**June 2013**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>6/5</td>
<td>Wed. Real Estate</td>
</tr>
<tr>
<td>6/12</td>
<td>Wed. CFO &amp; Financial Executives</td>
</tr>
<tr>
<td>6/13</td>
<td>Thurs. Golf Outing</td>
</tr>
<tr>
<td>6/15</td>
<td>Sat. The Ellen Gordon Walk / Run</td>
</tr>
<tr>
<td>6/21</td>
<td>Fri. Small Firm MAP</td>
</tr>
</tbody>
</table>
Laugh, Dance, Donate

60TH Annual Installation Dinner Dance

$99* per person (Tables of 10 -$950 each)

Thursday
May 9, 2013
at 6:30pm

At the
Crest Hollow Country Club
in Woodbury, NY

Sports Memorabilia Silent Auction.

We will be displaying
one of a kind pieces.

A portion of your bid
will be donated to:

Island Harvest

New York State Society of Certified Public Accountants
Nassau Chapter Newsletter – April 2013

Registration Form:
Name: _______________________________
Firm Name: __________________________
Firm Address: _________________________
Telephone: __________________________
Email: ______________________________
Print names of people attending:
1. __________________________
2. __________________________
3. __________________________
4. __________________________
5. __________________________
6. __________________________
7. __________________________
8. __________________________
9. __________________________
10. __________________________

Please seat me with person or firm: ________________________________

Payment:
Fax this form and credit card information to: (866) 495-1354

Name or Card: __________________________
Company Name: __________________________
Address: __________________________
Telephone: __________________________
Email: __________________________

☐ Mastercard ☐ Visa ☐ American Express ☐ Discover
Credit Card #: __________________________
Expiration Date: _________ Security Code: _________
Signature: __________________________ Date: _________

Checks payable to:
NYSSCPA – Nassau Chapter
Mail check with this form to:
Jean M. Townsend
C/O Sanden Thriller, Viola & Katz, LLP
350 Jericho Turnpike, Suite 1
Jericho, NY 11753-1317

Questions:
For questions, contact Jean at:
Telephone: (516) 938-5919
Email: jtownsendl@1-cpa.com

Please submit your registration form no later than Thursday, May 2, 2013.

portion of the ticket price will be donated to the NYSSCPA Foundation for Accounting Education (FAE) College Scholarship Account.
Wine & Cheese Networking Event

Join accountants and attorneys for an evening at a historic Gold Coast home

Thursday, April 25, 2013

Long Island Community Foundation
1864 Muttontown Road
Syosset, NY 11791

6 p.m.: Reception, Networking, & Tours of the home
7 p.m.: CPE/CLE Presentation by Ilene Samuel, Esq.
Followed by networking

R.S.V.P. by Monday, April 22 to Becky Richards
Capell Barnett Matalon & Schoenfeld LLP
100 Jericho Quadrangle, Ste. 233
Jericho, NY 11753
Phone: 516-931-8100  Fax: 516-931-8101
RRichards@cbmslaw.com

Name ___________________________________  Firm _______________________________________

Address ____________________________________________________________________________

Telephone _______________________________  Email _______________________________________

I am an: Accountant________  Attorney_______

RSVP Now!
Limited to the first 40 registrants

In cooperation with:
Long Island Community Foundation · L’Abbate, Balkan, Colavita & Contini, LLP · Farrell Fritz, P.C. Capell
Barnett Matalon & Schoenfeld LLP · NYSSCPA · NCCPAP
Nassau County Bar Association · Attorney/Accountant Networking Group
Ethics Night

Photos from January 9th at Chateau Briand.
All captions are left to right.

Sandy Johnson (NCCPAP Rep), Elissa Weick (Island Harvest Rep), Ray Floch (Co-Chair Community Affairs Committee) and Scott Sanders presenting Island Harvest with a $13,168.00 check.

Scott Sanders (President Elect) addressing the audience

Geri Gregor, Lynne Fuentes and Martha Jaeckle

Robert Schaffer, Anthony Basile, Christine Hallahan, Neal Korenberg and Dan Castellano

Christine Hallahan, Lisa Haynie, Anthony Basile

Tina O’Donnell and Jonathan Koota, ADP Reps Sponsoring Ethics Night!

Scott Sanders, Debbie Cutler, Chris Hallahan, Lisa Haynie, Robert Schaffer
Small Firm MAP Committee Meeting
April 19, 2013

Topic: Post-Tax Season Issues – Roundtable Discussion

We invite you to a roundtable discussion to rehash what went right and wrong during tax season. The goal is to learn from each other so we can have a smoother, more successful balance of the year and a better tax season next year. We will discuss the following:

- How to Handle Your Workload and Extensions after the Rush
- War Stories During Tax Season
- Communications with Staff & Clients While on Vacation or Away from the Office
- Exchange of Ideas
- Balancing Work and Home

Speakers: Scott Sanders, CPA, PFS, CGMA, CFP®, CFS
Eliot Lebenhart, CPA
Kenneth Hauptman, CPA
Alex Resnick, CPA

CPE: 2 Credits Pending

Time: 8:00–10:00 am – Breakfast (Be prompt!)

Place: On Parade Diner, 7980 Jericho Turnpike, Woodbury

Cost:* $25 per person pre-paid, pre-registered
$28 per person at the door

Checks are Payable to: NYSSCPA - Nassau Chapter

Chairpersons: Scott Sanders, CPA, CFP, CGMA, CFS®, PFS
Eliot Lebenhart, CPA
Kenneth Hauptman, CPA
Alex Resnick, CPA

We look forward to seeing you there!

The CFO & Financial Executives Committee would like to invite CFOs in industry to participate in our monthly meetings. Prospective members should be a CFO or the most senior financial person at their company. The dates and topics for our committee meetings are detailed below. We look forward to seeing you at a meeting soon.

CFO Committee Meeting

April 19, 2013

The CFO & Financial Executives Committee would like to invite CFOs in industry to participate in our monthly meetings. Prospective members should be a CFO or the most senior financial person at their company. The dates and topics for our committee meetings are detailed below. We look forward to seeing you at a meeting soon.

<table>
<thead>
<tr>
<th>Topic</th>
<th>Date</th>
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<tbody>
<tr>
<td>Understanding Bank Loan Agreements</td>
<td>.............. Apr. 18, 2013</td>
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<tr>
<td>Topic to be decided</td>
<td>.................. May 16, 2013</td>
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<tr>
<td>Fraud Prevention Roundtable / Planning</td>
<td>............. June 12, 2013</td>
</tr>
</tbody>
</table>

Meeting time: 8am to 10am (2 CPE credits are normally earned) – light breakfast served

Meeting locations:
Mineola – Meltzer, Lippe, Goldstein & Breitstone
190 Willis Ave <> Mineola, NY 11501

Melville - Marcum LLP
10 Melville Park Road <> Melville, NY 11747

*The April 18 seminar will be a joint meeting with the Suffolk CFO Committee, held in Melville

Committee Co-Chairs:
Anthony Aronica, CFO • Graphic Paper • aaronica@GraphicPaper.com • 631-964-8225
Manlio Caffiero, CFO • Scales Industrial • mcaffiero@scalsair.com • 516-248-9096 x2614
Full-Day Estate & Personal Financial Planning Conference

Photos from January 26th Joint Conference. All captions are left to right.

Lisa Haynie, Stephen M. Breitstone, Robert S. Barnett, Eric M. Kramer, Liz Eckert, Stephen Abramson, Robert Katz, Christine Hallahan, Scott Sanders

Robert Katz, JD, LL.M  Eric M. Kramer, Esq., CPA  Jordan S. Linn, Esq.,  Lawrence E. Davidow, JD, CELA  Robert S. Barnett, CPA, JD, MS

2013 Conference attendees

Stephen M. Breitstone, JD, LL.M

2013 Conference attendees

Stephen Abramson, ChFC, CLU, CPC
The 2013 All-Day Estate & Personal Financial Planning Committee Joint Conference

The Estate & Personal Financial Planning Committee held its annual all-day conference on Saturday, January 26, 2013. Registration & breakfast were followed with opening remarks & moderation from Christine Hallahan, CPA of Castellano Korenberg & Co, CPAs with acknowledgement and thanks to all who contributed their time and efforts in organizing the conference.

The presenters included Attorneys, CPAs, Pension & Financial Specialists and Authors. They are frequent lecturers and each has a passion for educating others and sharing the latest information in their fields and are among the top leaders in their industries and communities. It was a true pleasure and honor to hear their presentations.

Lisa Haynie, our chapter president gave a warm and whole-hearted welcome to our first presenter, Robert Katz, the senior partner at her firm and the founder of Katz, Bernstein & Katz, LLP. Bob specializes in estate planning at many levels and is also involved in corporate matters including shareholder agreements and business sales. Bob is also a renowned professor at Hofstra University and was awarded the Chaykin Distinguished Teaching Professor of Taxation.

Bob gave us an Estate Tax Update of 2013 and Beyond. He discussed portability pros and cons, gifting, what the 2012 Tax Relief Act did not change and also touched on the 3.8% net investment income tax.

Following Bob was Lawrence Davidow, CELA, managing partner of Davidow, Davidow, Siegel & Stern, LLP, who presented Updates on Elder Law & Medicaid Planning. “Medicare pays for short-term care not long-term care.” “I don’t believe Medicare is going to be here for long.” Lawrence stressed the importance of how the next generation should pay for long-term care to reduce the burden of aging parents. “Long-term care pays for nursing homes and assisted living and Medicare pays for what we don’t want.” He also spoke on spousal refusal, the look back period and techniques regarding life estates and grantor trusts.

Eric Kramer, Esq., CPA, Partner at Farrell Fritz, P.C., presented on the topic of Estate Planning for the Closely Held Business and Commercial Real Estate. Eric covered various methods of transferring a business including the concepts of business succession, outright transfers with discounted GRATs and sales to IDGTs and using trusts to reduce future estate taxes.

Just before noon, we had a special treat lined up. A Q&A session with a panel of five of our presenters had an extensive and great interaction with attendee participants. The panel included Bob Katz, Eric Kramer, Rob Barnett, Steve Abramson and Steve Breitstone. There was an array of questions - Section 1031, the 65-day rule, 2012 protective claims for Sandy victims and the 10% casualty loss siff in play, IDGTs vs. GRATs, Sections 671 – 679, revocable vs. irrevocable trusts, same-sex marriage and the Windsor Case.

Stephen Abramson of APS Pension & Financial Services Inc. presented a variety of retirement plan designs that would be suitable for a small to medium size business or professional practice. The focus of the designs was to maximize the benefits for the principals and/or key employees while maintaining an acceptable cost for the rank and file employees. Plans discussed included the many forms of salary deferral plans, e.g. traditional 401(k), safe harbor 401(k) and profit sharing including a class allocation design also referred to as comparability.

Jordan S. Linn, Esq., Farrell Fritz, PC, discussed Asset Protection & Preservation. In his presentation, he discussed various types of trusts such as spendthrift, QPRTs, QTIPs, adequate insurance and retirement assets, fraudulent conveyance, tenancies, LLCs, self-settled asset protection and its public policy, as well as offshore asset protection trusts and the advantages and possible pitfalls.

Robert S. Barnett, CPA, Esq., Capell, Barnett, Matalon & Schoenfeld, LLP, spoke about Bulletproofing Your Will. As always, Rob’s presentation was interesting and most informative.

As many CPAs participants in the conference are involved in estate planning, there are points of value we can give to our clients. He began by describing the initial client meeting and stressed the importance of obtaining a family tree and documenting testamentary capacity. He then discussed how to avoid a charge of undue influence and how to avoid will contests by use of the in-terrorem clause. Additional topics included disinheritance, joint wills, living trusts, QTIPs and simultaneous gift and will execution coupled with case studies and numerous tips for CPAs.

Stephen M. Breitstone, Esq., LL.M., Meltzer, Lippe, Goldstein & Breitstone, LLP, presented on Estate Planning for Real Estate Owners: Don’t Forget the Income Tax Side. Steve gave us cutting edge solutions for real estate including 1031 exchanges, GRATs, formations & partnership freeze techniques, excess basis, installment sales to IDGTs and the many estate planning techniques we should consider to avoid income tax pitfalls for real estate and UPREIT share owners.

I want to give a special thanks to Lisa Haynie, Nassau Chapter President, for her countless efforts and amazing contributions not only to the NYSSCPA, but to students, families, friends and colleagues. With much appreciation and gratitude, and the many efforts you gave, I also thank Elizabeth Eckert - co-chair, Lelia Dickenson, our conference liaison, each of our presenters, Scott Sanders, Eric Kramer & Robert Barnett for all your support and creativity, and the Suffolk chapter Estate and Personal Financial Committee members, Mark Cirelli and Sy Goldberg, who were in support of our first joint committee conference.

Christine Hallahan, CPA
Castellano, Korenberg & Co., CPAs, NY
NYSSCPA
New York State Society of Certified Public Accountants
Nassau Chapter Newsletter – April 2013

Nassau Chapter Staffs Newsday Tax Panel

Nassau and Suffolk Chapter NYSSCPA members participated in the Newsday online TAX TIPS program. Their comments were published in the March 10th Sunday Business Section. Many thanks to all who participated!

Here’s a link to the article published in Newsday:

How To Obtain A New York State Sales Tax Refund With Interest
By Joseph Calamia II, Senior Tax Specialist at Sales Tax Defense LLC

There might not be anything people encounter more often but pay less attention to than sales tax. It seems to appear on every invoice, bill and receipt and when it doesn’t, there’s still a blank line where it could have appeared. Sales tax has become such an everyday part of commerce that many people don’t even question it.

Sales tax should be questioned though. Just because sales tax is being charged doesn’t mean it should be. Sales tax laws can be confusing and cryptic so misunderstandings happen. Human error can play a role. Maybe the correct amount of sales tax was collected but too much was remitted due to a mistake on the sales and use tax return. It doesn’t matter why sales tax was paid when it should not have; it only matters that it was paid when it should not have.

What should your client do if they paid sales tax when they shouldn’t have or paid too much sales tax? File for a refund, of course.

Start with New York State Form AU-11, Application for Credit or Refund of Sales or Use Tax. This form must be submitted to New York State within three years from the date the tax was due to the Tax Department or two years from the date the client paid the tax, whichever is later. That means the clock is ticking so don’t wait!

This form requires the client to provide general information such as who is applying for the refund, why they are applying for the refund and how much of a refund they are requesting. The client should include as much information as they can to substantiate their claim. After all, they already had to do some work to figure out that they’re owed a refund and for how much so why not include it? Don’t forget that they should request interest on the refund; they’re entitled to it beginning 90 days after New York State receives a properly completed refund claim.

Once they’ve submitted their Form AU-11 with the supporting documentation, they simply wait. The process could take over a year, so they should be patient.

Your client should be aware that while their initial claim could be enough to have the refund granted, New York State isn’t in the business of just handing out refunds without asking questions. New (continued on page 14)
Nassau Chapter Practice Continuity Committee

April 26 Meeting – Attracting CPA Successors

Our fourth and final meeting of the 2012-13 Chapter year will be held at 8AM on Friday, April 26, 2013 at the On-Parade Diner. This meeting will address staffing issues and give guidance on how to attract a high level person to groom as a partner and/or successor into a local practice. Robert Fligel, CPA with RF Resources, LLC (an M&A, partner search and consulting firm for CPA’s) will speak on this topic. Larry Bloom will also discuss his experience in becoming a partner through this process and Craig Morris will outline one firm’s “Six - week Solution to Succession Planning”. Bank of America will also address CPA practice financing to aid in the succession process.

This meeting will help the sole or small partnership firm owner understand the staffing obstacles to succession planning and will provide guidance in overcoming them. We expect to generate action oriented ideas that will help attract quality talent to the smaller firm, and to understand how to find the people local practices desperately need for succession.

Please use the registration form in this newsletter to register for this meeting. For more information on meetings or our committee, contact us at ginette@morriscpas.com. Please be aware that changes in scheduling may occur due to conflicts, so it is important to register in advance to receive notification of late changes. We look forward to seeing you April 26.

Craig R. Morris, Chairman

PRAC TICE CONTINUITY COMMITTEE

Attracting CPA Successors

Friday 8AM, April 26, 2013 Meeting

On Parade Diner, Woodbury, NY
7980 Jericho Turnpike, Woodbury New York, 11797 • phone # (516) 364-1870

Ginette Morris
Craig Morris & Company Tel: (516) 681-1121
356 South Oyster Bay Road Fax: (516) 681-1203
Syosset, NY 11791 E-mail: ginette@morriscpas.com

Dear Ginette:

☐ I will be attending the breakfast at 8:00 AM.
☐ Enclosed is my check for $_____ at $18.00 per person or
☐ I prefer to pay $____ at $25.00 per person at the door.
(Walk-ins may be limited due to space availability).

Checks are payable to NYSSCPA, Nassau Chapter.

Note: Please RSVP by phone, fax or e-mail as early as possible, so we can arrange for adequate seating.

Name:
Firm:
Address:
City/State/Zip:
Telephone:
E-Mail:

☐ I prefer to pay $____ at $25.00 per person at the door.
(Walk-ins may be limited due to space availability).

Checks are payable to NYSSCPA, Nassau Chapter.

Note: Please RSVP by phone, fax or e-mail as early as possible, so we can arrange for adequate seating.

Name:
Firm Affiliation:
Address:
City/State/Zip:
Telephone:
E-Mail:
Nassau Chapter

Report of the 2013-2014 Nominating Committee

February 11, 2013

Nominating Committee:
Chair: Mark Meinberg, CPA
Mark Stone, CPA
Eric Kramer, CPA

The Nominating Committee is proud to announce the Slate for the 2013-2014 Year:

OFFICERS:
President Elect .................. Robert Barnett, Esq., CPA
Vice President .................. Philip H. Kanyuk, CPA
Treasurer ....................... Lynne M. Fuentes, CPA
Secretary ....................... Christine P. Hallahan, CPA

DIRECTORS:
Anthony Aronica, CPA ....... Two Year-term ending 5/31/15
Eliot Lebenhart, CPA ......... Two Year-term ending 5/31/15
Alex Resnick, CPA ......... Two Year-term ending 5/31/15
Howard Fine, CPA ........ One Year-term ending 5/31/14
Anthony Basile, CPA ....... One Year-term ending 5/31/14
Geri Gregor, CPA .......... One Year-term ending 5/31/14
Joel Dressner, CPA ....... One Year-term ending 5/31/14
Cynthia Sze, CPA .......... One Year-term ending 5/31/14

The following are automatically selected:
Director (PAST PRESIDENT) .... Lisa Haynie, CPA
President ....................... Scott Sanders, CPA

The election took place at the
Joint Chapter Meeting on March 21st, 2013 at the
Crest Hollow Country Club, Woodbury, New York
Establishing Credibility:
Recent Cases Highlight the Plight of Real Estate Professionals
By Robert S. Barnett, CPA, JD, MS (Taxation) & Rebecca K. Richards

As evidenced by a line of recent cases, the IRS has been aggressive in pursuing taxpayers claiming to be real estate professionals. When faced with taxpayers attempting to deduct losses attributable to their rental real estate activities, the courts have been adamant in requiring adequate, credible proof that the statutory requirements have been satisfied. Otherwise, the losses are deferred as passive activity losses.

Section 469 of the Internal Revenue Code generally disallows any deduction for losses sustained from passive activities. Passive activity loss is the amount by which the taxpayer’s aggregate losses from passive activities exceed the aggregate income from passive activities. These losses must be carried forward to be applied against passive activity income in subsequent tax years. A passive activity is defined as any trade or business in which the taxpayer does not materially participate. The Code classifies rental activity as “per se passive” regardless of material participation, subject to limited exceptions. One such exception, contained in Section 469(c)(7), provides that a taxpayer’s rental real estate activities will not be considered per se passive if the taxpayer qualifies as a real estate professional.

To qualify as a real estate professional, the taxpayer’s must prove (i) more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates; and (ii) such taxpayer performs more than 750 hours of services during the taxable year in real property trades or businesses in which the taxpayer materially participates. For spouses filing jointly, the test is satisfied if either spouse qualifies as a real estate professional.

Material participation is defined by Section 469(h) as regular, continuous, and substantial involvement. Treas. Reg. § 1.469-5T contains seven objective tests that can be used to prove material participation. The regulation provides that proof of participation “may be established by any reasonable means,” including, but not limited to, logs, appointment books, time records, or other documents identifying the services performed and the number of hours expended.

Recent cases have focused on the lack of credibility in holding that the taxpayer did not qualify as a real estate professional. Treasury Regulations do not have specific recordkeeping requirements and provide only general guidance. Treas. Reg. § 1.469-5T. The Tax Court has consistently held that a “post-event ballpark guesstimate” is insufficient proof of the hours spent on a particular activity. Hudzik v. Com’t, TC Sum. Op. 2013-4; Fowler v. Com’t, TC Memo 2002-223; Moss v. Com’t, 135 T.C. 365 (2010); Goshorn v. Com’t, TC Memo 1993-578. “[T]he credibility of a taxpayer’s records is diminished where the number of hours reported appears excessive in relation to the task described.” Jafarpour v. Com’t, TC Memo 2012-165; Hill v. Com’t, TC Memo 2010-200.

In order to successfully claim real estate professional status, the taxpayer must maintain and present sufficient, credible evidence to support the statutory requirements. The only evidence offered in

Hoskins v. Com’t, TC Memo 2013-36, was the taxpayer’s testimony regarding the hours spent at each of his rental properties. The taxpayer admitted that he had not maintained an appointment book, record, or log and had only his subjective recollections of the hours devoted to each property. The court refused to accept “unverified, undocumented testimony” and emphasized the lack of “contemporaneous verification” to substantiate the taxpayer’s claims.

The taxpayer in Hudzik v. Com’t, TC Sum. Op. 2013-4, offered a general log of time spent at her two rental properties claiming she qualified as a real estate professional. The court disregarded the logs as not credible and denied her claim. The logs did not indicate when they were created, failed to specify the types of services performed at each property, did not break down the hours spent at each property, and provided no “underlying documentary evidence to substantiate the hours reflected in the logs.” Further, the number of hours allegedly devoted to the rentals was suspect when compared to the hours devoted to the taxpayer’s full-time job.

In Jafarpour v. Com’t, TC Memo 2012-165, the Tax Court similarly scrutinized the offered evidence to determine that the taxpayer’s appointment book and real estate log were not credible. Notes were frequently illegible and ambiguous, and the taxpayer was unable to accurately document the time spent at her chiropractic office. This lack of proof was fatal to the claim of a real estate professional because she was unable to prove more than one-half of her time was spent in real property trades or businesses.

As to the real estate log, the court found it to be “tainted with incredulity” and the number of hours to be “excessive in relation to the task described.” The taxpayer allegedly devoted an entire hour to “receiving and reading a nine-sentence email” and reported two nineteen-hour days visiting and researching rental properties. The log did not appear to be contemporaneous, as the services performed were written in ink, while the total hours were written in pencil on the side of the page.

It is critical for taxpayers wishing to qualify as real estate professional to maintain detailed, accurate records. Separate records should be maintained as to each of the taxpayer’s rental properties and should identify the type of service and the hours devoted to that service. Although contemporaneous records are not statutorily required, the cases frequently stress their importance in establishing credibility. Therefore, maintenance of contemporaneous logs or records is highly recommended. In addition, clients should retain all email correspondence, notes of meetings and consultations, and records of banking, maintenance, leases, and repairs for each rental property. The cases highlight the IRS’ rigorous review of real estate professionals and the court’s careful analysis and examination of both the type of evidence offered and the substance contained therein.

Robert S. Barnett is a partner at Capell Barnett Matalon & Schoenfeld LLP in Jericho, New York, where he heads the Tax and Estate Planning Departments. Rebecca K. Richards is a law clerk at the firm.
12th Annual
Ellen Gordon
CPAs 4(a): Cause 5K Run/Walk to End Hunger

Saturday, June 15, 2013
Eisenhower Park, Field #1
East Meadow, NY
(Access from Merrick Ave. entrance only)

Registration Starts at 7:30 AM
Race Time: 8:30 AM

REGISTRATION FORM

Name ____________________________ Sex M F
Age on Race Day ________________ Birth Date ________________
Email __________________________ Phone ______________________
Address __________________________
City ______ State ______ Zip Code ______

I, ____________________________, in the presence of (name of person present), have read and signed the Registration Consent Form.

Applicant Signature: ____________________________ Date: ________________

Register online:
www.active.com
www.glicr.org/events
www.islandharvest.org

Mail registration forms & checks to:
Raymond W. Flock, CPA
G.R. Reid Associates, LLP
181 Main Street
Huntington, NY 11743
(Or bring to registration table at race)

For more information:
Ray Flock
(631) 425-1900 x312
RFlock@GRRCPAs.com
Roy R. Massa
(631) 897-2182
roymassa@yahoo.com

Music
Post-race food & refreshments
Awards:
Top 3 Overall Male
Top 3 Overall Female
Top 3 Finishers in each age category
(5 year groups)
Ribbons for all children under 14
Prizes:
Area restaurant and other Gift Certificates.

Proceeds will benefit:
Island Harvest
www.islandharvest.org

Race timer: Start2Finish
Taxation Committee’s First Joint Conference

We are proud to report that on Friday, January 18th the NYSSCPA’s Nassau and Suffolk Chapter Taxation Committees held their first joint conference. The NYSSCPA statewide Personal Financial Planning Committee also joined in for part of this seminar via webinar from the NYSSCPA offices in Manhattan and by conference call from other locations. This seminar addressed extremely relevant topics in the current tax climate.

Robert S. Barnett CPA Esq. of Capell, Barnett, Matalon & Schoenfeld LLP, presented “Casualty Losses”, which so many attendees found to be informative and helpful for their clients in our area.

And Robert L. Goldfarb CPA of Schoenfeld, Mendelsohn, Goldfarb LLP presented on the "American Taxpayer Relief Act of 2012". Mr. Goldfarb elaborated on the new act which so many of us were anxiously anticipating.

The conference proved to be a great success thanks to our remarkable speakers and the participation of our members.

Iola Damante, CPA
Taxation Committee
Grassi & Co. CPA's

Robert Schaffer, CPA
Taxation Committee
Castellano, Korenberg & Co. CPA's

SPONSORSHIP FORM

We are pleased to join the NYSSCPA, NCCPAP, and FPA of Long Island as a sponsor of the 12th Annual, Ellen Gordon CPAs for a Cause 5K Run/Walk in support of Island Harvest, A Food Bank for Long Island.

Please indicate the level of sponsorship:

- DIAMOND SPONSOR - $2,000 Includes logo printed on front of the race tee shirt, display table during registration (sponsor provided), entrance for 13 runners/walkers and logo listing on the Island Harvest website.

- PLATINUM SPONSOR - $1,500 Includes logo printed on front of the race tee shirt, display table during registration (sponsor provided), entrance for 10 runners/walkers and logo listing on the Island Harvest website.

- GOLD SPONSOR - $1,000 Includes logo printed on the race tee shirt, display table during registration (sponsor provided), entrance for 6 runners/walkers.

- SILVER SPONSOR - $500 Includes company name printed on the race tee shirt, display table during registration (sponsor provided), entrance for 3 runners/walkers.

- BRONZE SPONSOR - $250 Includes company name printed on a 2’x 2’ sign to be displayed at the event.

* PLEASE SUBMIT LOGO CAMERA-READY ART FOR DIAMOND, PLATINUM, AND GOLD LEVEL SPONSORSHIP

Print name below as it should appear on the race tee shirt for Silver Sponsorship and 2’x2’ sign for Bronze Sponsorship:

________________________________________________________

Please make checks payable to: NYSSCPA Nassau County and write: “Ellen Gordon CPAs 4(a): Cause/Island Harvest” on the face of the check.

Company: ___________________________________________
Contact Person: _______________________________________
Address: ____________________________________________
Phone: __________________________ e-mail: _______________

Mail sponsor forms & checks to: Raymond W. Floch, CPA, G.R. Reid Associates, LLP, 181 Main Street, Huntington, NY 11743

For more information:
Ray Floch (631) 425-1800 x312 RFloch@GRRCPAS.com
Roy B. Massa (631) 897-7182 roymassa@yahoo.com
NYSSCPA’S NASSAU CHAPTER
ANNUAL GOLF OUTING

Hosted by the: Cooperation With Bankers & Other Credit Grantors Committee, Neal Korenberg, CPA Chairman

Thursday
June 13, 2013
North Hills Country Club
Manhasset, New York

10:30am Registration, 12pm Shotgun, 5:30pm Cocktail/Buffet Dinner including Raffle Prize Drawing

Proper Golf Attire: Sport or Golf shirts with collar and sleeves (must be tucked in). Golf Shorts or slacks for men, golf skirts or shorts for women. NO CARGO SHORTS OR DENIM ALLOWED ON THE PREMISES.
NYSSCPA Nassau Chapter Woman's Focus Group

The Woman's Focus Group had its first evening networking event on January 16, 2012 and I hasten to say, it was a huge success! With 60 plus attendees, the room was filled with an energy and camaraderie that was impenetrable. There were many wonderful delicious & pampering raffle prizes and, as in the past, donations of clothing in support of Dress for Success, a non-profit organization which supports woman in need. In fact, we collected 30 suits, 17 jackets 29 blouses, 12 pants, 7 skirts, 5 sweaters, 5 pocketbooks, 4 scarves and 5 pairs of shoes. A tremendous thanks to those who participated, as you have effortlessly made a difference in another woman's life.

Save this Date!! This is a must attend. The WFG will be hosting our annual Spring Networking Luncheon on Friday, May 17, 2013 at 12:00pm, at the Millridge Inn, located in Jericho.

Our guest speakers will be Audrey Kirwin of Sound Wealth Financial Group, who will be presenting "Fight the Fear - A Real Life Experience & It Could Happen to You" and Debi Silber, MS, RD, WHC, FDN The Mojo Coach and President of Lifestyles Fitness, who will be presenting "How to Look, Feel & Live Like a Leader".

All those who attend will receive a copy of Debi's book "A Pocket Full of Mojo: 365 Proven Strategies to Create Your Ultimate Body, Mind & Lifestyle."

I wish to give a special thanks to Lisa Haynie, our Chapter President, of Katz, Bernstein & Katz, LLP, my co-chair Geri Gregor, & Traci Striano, of Grassi & Co, CPAs and our newest co-chair, Liz Oberg and Toni-Ann Dalton, of Sanders, Thaler, Viola & Katz, LLP. We are grateful to have you on the team and look forward to working together and creating endless possibilities for the future.

Christine Hallahan, CPA
Castellano, Korenberg & Co, CPAs

Co-Chairs Christine Hallahan and Geri Gregor with friends

Ladies enjoying networking

Lisa Haynie, Debbie Cutler (NYSSCPA Ethics Chair), Christine Hallahan (Co-Chair) and Geri Gregor (Co-Chair)

Christine Hallahan (Co-Chair), Lisa Haynie, Toni Ann Dalton (Co-Chair)
How To Obtain A New York State Sales Tax Refund (continued from page 9)

York State might ask for additional, and sometimes specific, information. The client might even need to speak with a New York State representative so the representative can find out the answers to the questions they may have. A request for additional documentation or information is not unusual.

In some cases, a large refund claim can also trigger a sales and use tax audit. We recommend completing a sales tax due diligence review of the client’s policies and procedures prior to filing a large refund. This due diligence review should quantify both the client’s potential exposure and potential refund.

Remember, the client is not asking for anything they are not entitled to. The client should request a refund if they believe they are owed one. New York State collects sales tax but is only authorized to collect the correct amount of tax.

If you or your client is having trouble identifying refund opportunities or are too unsure about the process, seek outside help. When it comes to refunds, some professionals will work on a contingent basis meaning the professional does not get paid unless the refund claim is successful. Others work on an hourly fee. In either case we believe that the professional should deliver a management letter to the client detailing the reasons and areas that created the overpayment so that the client never erroneously pays money that is not due again.

So the next time you pay sales tax, the first question you should ask yourself isn’t how much sales tax am I paying. The first question you should ask yourself is should I be paying sales tax.

This article is authored by Joseph Calamia II, Senior Tax Specialist at Sales Tax Defense LLC

JCalamia@SalesTaxDefense.com  631-491-1500
How to Dispute a Sales Tax Assessment
By Jennifer Koo, Esq.

It can be a shock when an owner receives that ominous letter in the mail that informs him, that his business has been selected for a sales tax audit. In New York State, a sales tax audit begins by an auditor requesting a wide range of books and records for a specific time period. The auditor analyzes the books and records and almost always asks for additional documentation. This back and forth may drag out an audit for months or even years. Furthermore, an owner could be continuously providing records without receiving any results from the auditor along the way. If a business does not have adequate books and records, the auditor may use any reasonable means to estimate tax due.

After months or years of speaking to the auditor and providing documentation, once the auditor completes his review and analysis, he will issue an AU-346, also known as a Statement of Proposed Audit Change for Sales and Use Tax. The AU-346 outlines the auditor’s findings. It can say that the auditor reviewed the three years under audit and found no additional tax due. However, the AU-346 can also state a finding that there is thousands or hundreds of thousands of dollars due.

An AU-346 is not a final assessment. It is a preliminary finding by the auditor. The owner can either agree or disagree to the findings. If an owner disagrees, he may review the auditor’s work papers and present additional documentation or arguments as to why the auditor’s calculations are incorrect. An auditor is often willing to discuss reasonable arguments at this stage of the audit. However, an owner or his representative must be able to present something more than simply stating “these numbers cannot be right.” In the end, an auditor may or may not make changes to his findings.

When an owner has no more documentation to present or an auditor is no longer willing to accept documentation, the audit will be closed and a Notice of Determination will be issued. The Notice of Determination outlines the final audit findings. An owner may still disagree to the findings. However, there is a strict 90 day deadline to dispute the Notice of Determination and request a hearing. The hearing is called a Bureau of Conciliation and Mediation Services (“BCMS”) hearing. If a BCMS hearing is requested 91 days after the Notice of Determination, it is too late and the audit findings are considered fixed and final. A company may be represented by an owner, employee, or representative at the BCMS hearing.

An owner may present both old and new documentation at the BCMS hearing. A New York State representative, usually the auditor, will also be present at the hearing. A Conferree will listen to both sides, review the documentation, and either sustain the findings, lower or cancel the findings, or request further documentation. A Conferree can never increase the amount due by the taxpayer. Once the Conferree makes her final decision, she will issue a Conciliation Order.

If the owner is dissatisfied with the results of the BCMS hearing, he may appeal the decision by requesting an Administrative Law Judge (“ALJ”) hearing with the New York State Division of Tax Appeals. The request must be made within 90 days of the date of the Conciliation Order. Much more administrative paperwork is required to file for and prepare for an ALJ hearing. A Petition must be filed to request an ALJ hearing. The case will be assigned to an attorney with the New York State Tax Department who will respond to the Petition with an Answer. A Judge will also be assigned to the case. The owner or his representative and the State’s attorney will be encouraged to reach a settlement before the trial date. Along the way the judge will schedule conference calls to keep abreast of settlement negotiations. If the case does go to trial, the owner or his representative will have to prepare witnesses, exhibits, and hearing memorandums. During trial, the judge follows the rules of evidence. The judge will hear testimony and review evidence submitted by both sides and make a Determination.

If an owner wishes to appeal a Determination from an Administrative Law Judge, he/she can appeal the decision to the Tax Appeals Tribunal, then an Article 78 hearing, and even potentially in Federal Court. However, as you can imagine this can be a very time consuming and costly process.

The New York State Tax Department offers several levels of review. However, the Tax Department is very strict with deadlines. There is room for negotiation with the Tax Department as long as the taxpayer does not miss deadlines.

A sales tax audit can be stressful and frustrating. Obtaining competent representation who knows the sales tax rules and procedures in New York State can help ease the stress. Remember, there is a light at the end of the tunnel and eventually, the sales tax audit will be over!

This article is authored by Jennifer Koo, Esq., a tax attorney at Sales Tax Defense LLC.

SEE YOUR ARTICLE OR MEMBER NEWS HERE!

The editors of the Chapter newsletter invite you to contribute. If there is something new or exciting that you would like to share with your colleagues, from photos of a recent event, to ideas on how to make the newsletter more interesting and fun…

Please contact the editors at nassaunewsletter@nysscpa.org
The Young CPAs Committees of the Suffolk and Nassau Chapters invite you to a

**Super-Sized Networking Event – REMIX!**

Thursday, August 8, 2013
6:00 p.m. – 8:00 p.m.

at Kodiaks
Farmingdale, NY

$35 per person

Come to this strictly social event to mingle with your peers, including:

- Risk Management Associates, Young Professionals
- New York State Bar, 10th Judicial District
- Suffolk/Nassau Bar Association, Young Professionals

*Passed hors d’oeuvres! Open bar!*

For information: Josh Sechter – (631) 719-3357, JSchter@hrrllp.com

Name: __________________________________________
Firm: __________________________________________
Address: _______________________________________
City, State, Zip: _________________________________
Telephone: _____________________________________
E-mail: _________________________________________

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

Colleen Columbia
Holtz Rubenstein Reminick LLP
125 Baylis Road, Melville, NY 11747
Phone: (631) 719-3352
Fax: (631) 752-1742
scolumbia@hrrllp.com
The Nassau Chapter Young CPA Committee invites you to a Becker CPA Review Class.

Wednesday, May 22, 2013
6:00 – 8:00 p.m.

at Holtz Rubenstein Reminick
125 Baylis Road, Melville

$10 per person

Come learn some tips and tricks to pass the CPA examination.

Name: ________________________________
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Address: ________________________________
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Please make checks payable to NYSSCPA Nassau Chapter and mail to:
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Holtz Rubenstein Reminick LLP
125 Baylis Road, Melville, NY 11747
Phone: (631) 719-3352
Fax: (631) 752-1742
ccolumbia@hrrlp.com
**Information and Hotlines**

### Have a Tax Problem?

The following members of the Taxation Committee are available to help answer your questions:

**General**
- Robert S. Barnett, Esq., CPA (516) 931-8100
- Jack Angel, CPA (516) 487-1494
- Robert Lusthaus, CPA, Esq. (516) 937-1366
- Jay Oher, CPA (631) 225-9801
- Karen J. Tenenbaum, Esq., LLM, CPA (IRS & NYS) (631) 465-5000

**Taxing Authorities**
- Ruth Sattig Betz, CPA (NYS) (516) 249-1919
- Sam Deutscher, CPA (IRS) (212) 239-3300
- Noelle T. Geiger, Esq. (IRS & NYS) (212) 503-8940
- Yvonne Cort, Esq. (IRS Forms 433A & B) (631) 465-5000

**Emergency Assistance Hotline**

The committee member to call in the event of the disability or death of a member is:
- John Kearney, CPA (516) 746-5980

### Accounting and Auditing Technical Questions Hotline Volunteers

- Thomas O. Linder, CPA (631) 462-1213
  
  **Linder & Linder**
  **Tlinder72@cs.com**

- Fred R. Goldstein, CPA (516) 249-2882

### Estate and Personal Financial Planning Committee Technical Questions Hotline Volunteers

- Eric Kramer, CPA, Esq. (516) 227-0738
- Richard Zerah, CPA/PFS, CFP, CMFC (516) 735-4717

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**Change Form**

Name (Last, First, Middle Initial) ______________________________________________________

Home Address ________________________________________________________________

City, State, Zip ________________________________________________________________

Home Phone __________________________________________________________________

E-mail ______________________________________________________________________

Firm Name __________________________________________________________________

Firm Address ________________________________________________________________

City, State, Zip ________________________________________________________________

Business Phone ________________________________________________________________

Chapter Member: ☐ Yes ☐ No

Please Send All Mail to: ☐ Firm ☐ Home (Specify Chapter) ____________________________

☐ I would like to receive an e-mail with a direct link to the newsletter on nysscpa.org.

Return this form to: Xio Fox, NYSSCPA, 3 Park Avenue, New York, NY 10016-5991

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**New Deadlines**

All submissions are due to Editors at nassaunewsletter@nysscpa.org six weeks prior to issue date.

- **Newsletter Issue**
  - January: December 10th
  - April: March 10th
  - May: April 10th
  - September: August 10th
  - October: September 10th
  - November: October 10th