Happy New Year to all Nassau Chapter members! Our Chapter is ringing in the New Year and offering many programs to help you fulfill your last minute CPE requirements for 2012. In light of Hurricane Sandy, the New York State Department of Education has extended the CPE requirement deadline to February 1st, 2013. We have a terrific schedule of CPE programs to help you meet that requirement.

For starters, on Wednesday, January 9th, at the Chateau Briand we are hosting our annual Ethics Town Hall Meeting. Debbie Cutler is our distinguished guest speaker! Come and earn two ethics CPE credits. New York State Society representatives will be in attendance to answer questions that you may have. The registration flyer for this event is on page 3 of this newsletter.

On Saturday, January 26th, the Nassau and Suffolk Chapters are hosting their All Day Estate and Financial Planning Conference at the Melville Marriott on Route 110. Distinguished speakers include Robert Katz, Stephen Abramson, Robert Barnett, Stephen Breitstone, Lawrence Davidow, Eric Kramer and Jordan Linn. Current topics include Pension Planning of the Closely Held Business, Bulletproofing Your Will, Estate Planning for Real Estate Owners: Don’t Forget the Income Tax Side, Updates on Elder Law and Medicaid Planning, Estate Planning Update for 2013 and Beyond, Methods of Transferring the Closely Held Business, Commercial Real Estate and Asset Protection and Preservation.

The Small Firm MAP is hosting a dress for success, healthy eating and wellness care breakfast meeting at On Parade Diner in Woodbury, January 18th. The Small Firm MAP chairs, Scott Sanders, Eliot Lebenhart, Kenneth Hauptman and Alex Resnick are inviting the Young CPAs to this event. So if you are a young CPA and have not yet joined our Chapter’s Young CPA Committee, please contact Carmelina Hernandez at chernandez@markspaneth.com at 516-992-5876. You will earn two CPE credits and gain a fashion sense of the latest trends on how to look professional and get tips to staying healthy over tax season.

If you are looking for a social night out, on Wednesday, January 16th the Women’s Focus Group is hosting its own post-New Year networking celebration. Ladies — tag your calendars and meet us for Ladies Night Out at Wicker’s in Hicksville. Bring plenty of business cards! We are looking forward to reuniting and having some fun. If you would like to be included on our mailing list, please contact TStriano@grassicpas.com or call her directly 516-336-2445. She will get you connected.

Most importantly, please join us on Monday, January 7th, at Margolin Winer and Evens for our rescheduled Nassau Chapter Blood Drive. We desperately need your support! Your donation can save up to THREE LIVES! Please call Anna Arroyo at 516-747-2000 x4305 to schedule an appointment. If you are unable to join us that day, please visit any Long Island Blood Donation site and use code #9579. Our Chapter will be recognized for your donation.

On a personal note, my holidays were filled with friends and family gatherings which included my neighbors who were adversely affected by Hurricane Sandy. I was thankful for the opportunity to provide a home base for many local children and help their parents in their time of need. This was truly the brightest part of my holiday season. Wishing you and yours a Happy & Healthy New Year!

Sincerely,

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

ISSUE HIGHLIGHTS

Calendar: January – March 2013 .......... 2
Member Profile: Geri Gregor .......... 5

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.
Joint Legislative Issues Committee
Held its Inaugural Meeting

On November 9, 2012, the Joint Legislative Issues Committee held its inaugural meeting. The purpose of this committee is to work as a liaison between the practitioners and the New York State legislators.

Back Row (l to r): Lisa Haynie (NYSSCPA Nassau Chapter Pres), Anthony Basile (Co-Chair), Gary Sanders (NCCPAP Nassau Pres) and Scott Sanders (NYSSCPA Pres Elect)

Front Row (l to r): Robert Schaffer (NYSSCPA Nassau Chapter Legislative Task Force Rep), Carol Markman (Co-Chair), Robert Goldfarb (attendee), Ross Kass (Co-Chair), Robert Barnett (Co-Chair)

DISCOUNTED SPONSOR AND ADVERTISING RATES FOR THE MAY 9, 2013 INSTALLATION DINNER CHAPTER EVENT

Sign Up And Pay By Dec. 31, 2012
Take 20% Off Contract Rates

Sign Up And Pay By Feb. 28, 2013
Take 10% Off Contract Rates

The sponsorship contract can be downloaded at the following link:

Calendar of Events

January 2013

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February 2013

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March 2013

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May 2013

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Nassau Chapter Annual CPA Ethics Update
(Formally the Town Hall Meeting Ethics Update)

Wednesday, January 9, 2013
Chateau Briand
440 Old Country Road, Carle Place, NY 11514
Cocktails: 5:45 p.m.
Dinner & Meeting: 7:00 – 9:00 p.m.
CPE only: 7:15 – 9:00 p.m.

Ethics Presentation:
David J. Moynihan, NYSSCPA Past President

Description: A hallmark of the public accounting profession is its commitment to professional ethics and the public interest. This course, which meets one-half of the four-hour ethics CPE requirement, gives you a basic understanding of the New York State Educational Law, the Rules of the Board of Regents, and Regulations of the Commissioner of Education, as well as the Code of Professional Conduct of the AICPA and the NYSSCPA.

Designed For: All licensed New York State CPAs who are required to have an understanding of the CPA profession’s ethics standards.

Objective: To provide knowledge of the recent changes to the AICPA and the NYSSCPA Code of Professional Conduct and to enable attendees to differentiate between the New York State Education Law, the Rules of the Board of Regents, the Regulations of the Commissioner of Education, and the rules of the AICPA and the NYSSCPA Code of Professional Conduct.

Please join us for this exciting event!
Please RSVP without delay in order to reserve your seat, using the coupon below.

NOTE: YOU MUST REGISTER TO ATTEND. Those not registered will not be allowed to attend the CPE presentation.

How to register online:

Please note: All registration (dinner and CPE) is being handled by the NYSSCPA.

The Nassau Chapter will not be taking registration for this program.

You can register: online at www.nysscpa.org
by phone: 800-537-3635
or by mail with the coupon on this page.

To register for the Ethics CPE Update session, only use
Course Code: 42773303
Members attending: $25.00
Nonmembers attending: $50.00

To register for cocktails and dinner and CPE session:
Course Code: 45030308
Members attending: $85.00
Nonmembers attending: $110.00

Subscription plan members and those needing additional information, please contact Lelia Dickenson at ldickenson@nysscpa.org or 212-719-8366.

JANUARY CHAPTER MEETING REGISTRATION COUPON

Wednesday, January 9, 2013
Chateau Briand, Carle Place, NY 11514
Please mail to: Lelia Dickenson, NYSSCPA
3 Park Avenue, 18th Floor
New York, NY 10016-5991
212-719-8366

☐ I will attend cocktails and dinner and CPE presentation at 5:45 p.m. Enclosed is my check for $__________, payable to the Foundation for Accounting Education.

☐ I will attend cocktails and dinner and CPE presentation at 5:45 p.m., and I am a member of the Nassau Chapter Subscription Program (check not enclosed).

☐ I will attend the CPE presentation only at 7:15 p.m.

Name: _____________________________________________________________
Firm Affiliation: ___________________________________________________
Address: __________________________________________________________
Telephone: _________________________________________________________
Fax: _______________________________________________________________
E-mail: ____________________________________________________________
Full-Day Estate & Personal Financial Planning Conference

Sponsored by The Nassau & Suffolk Chapters’ Estate & Personal Financial Planning Committees

Saturday, January 26, 2013
9:00am – 5:15pm (check in begins at 8:30am)

Chapter Presidents:
Nassau Chapter President:
Lisa Haynie, CPA, MS, Katz Bernstein & Katz, LLP
Suffolk Chapter President:
Mark A. Cirelli, CPA/PFS, CFP, North Shore Wealth Management Advisors, Inc.

Conference and Committee Chairpersons:
Nassau Chapter:
Christine Hallahan, CPA Castellano, Korenberg & Co. CPA’s, P.C.
Elizabeth Eckert, Esq., CPA, ELA, Elizabeth Eckert, CPA
Suffolk Chapter:
Mark A. Cirelli, CPA/PFS, CFP, North Shore Wealth Management Advisors, Inc.
Seymour Goldberg, CPA, MBA, JD, Goldberg & Goldberg, P.C.

Conference Liaison: Lelia Dickenson

Location: Marriot Melville, Long Island

Designed for: Financial professionals who have a basic knowledge of estate and personal financial planning.

Objective: To update participants on the impact of recent legislation and tax law changes and to provide practical application in compliance.

Developer: Foundation for Accounting Education

Time: 9:00am – 5:15pm. Registration and Networking Breakfast begin at 8:30 a.m.

Fee: $150, members, $250, non-members (lunch included)

CPE Credits: 8 Course Level: Update

Presentations include:

- Estate Planning Update for 2013 and Beyond – Robert Katz JD, LL.M (Taxation) — Katz, Bernstein and Katz, LLP
- Bulletproofing Your Will - Focusing on valuation considerations and deductibility under the new regulations and procedures — Robert Barnett, Esq., JD, CPA, JD, MS (Taxation) — Capell, Barnett, Matalon & Schoenfeld, LLP
- Methods of Transferring the Closely Held Business & Commercial Real Estate – Eric M. Kramer, Esq., CPA – Farrell Fritz, P.C.
- Estate Planning for Real Estate Owners: Don’t Forget the Income Tax Side – Stephen M. Breitstone, JD, LL.M (Taxation) — Melzer, Lippe, Goldstein & Breitstone, LLP
- Pension Planning for the Closely held Business – Stephen Abramson, ChFC, CLU, CPC — APS Pension & Financial Services, Inc.
- Updates on Elder Law & Medicaid Planning – Lawrence E. Davidow, JD, CELA – Davidow, Davidow, Siegel & Stern, LLP
- Asset Protection & Preservation – Jordan S. Linn, Esq., Farrell Fritz, P.C.

The Nassau & Suffolk Chapters’ Full-Day Estate & Personal Financial Planning Conference

Saturday, January 26, 2013 – 9:00am – 5:15pm
Registration and Networking Breakfast begin at 8:30 a.m.

Marriot Melville, Long Island
1350 Walt Whitman Road, Melville, NY 11747

Register online at www.nysscpa.org or fax to (212) 719-3365, or phone (800) 537-3635

- Are You a CPA? Yes No
- Are You a Member of the NYSSCPA? Yes No
- CPA Certificate No. /___/___/___/___/___/___/
- Are You a Member of the AICPA? Yes No
- Member ID No. /___/___/___/___/___/___/
- Are you a member of another CPA society? Yes No

Name: ________________________________________________________________
Firm: _________________________________________________________________
Address: ______________________________________________________________
City/State/Zip: __________________________________________________________
Telephone: ___________________________ Fax: _____________________________
Cell: ________________________________
E-Mail: _______________________________________________________________

Total Amount Enclosed
Member Fee $150:_________________________
Nonmember Fee $250:____________________
Total Amount: ___________________________

Method of Payment: Checks Payable to FAE
- American Express MasterCard Visa
Credit Card No. ___________________________
Card Holder’s Name ____________________________________________________
Exp. Date _______________________________

Walk-ins: All individuals who register on the date of the program will be charged an additional $25 fee.

Refunds: No refunds will be given for cancellations received less than 2 weeks before the program date. A $25 processing fee will be deducted for cancellations received more than 2 weeks before the program date.

Register online at www.nysscpa.org or fax to (212) 719-3365, or phone (800) 537-3635. REGISTER TODAY!
MEMBER PROFILE

Geri Gregor

One meeting was all it took for Geri Gregor to figure out that she wanted to be involved with the Nassau Chapter’s Women’s Focus Group. She attended a meeting a number of years ago, and “Thought it was an incredible event and a terrific way for female CPAs to meet other accounting professionals from outside their own firm. It’s been a great place to develop friendships, get advice and enjoy camaraderie.”

Her next step was to get involved in the committee, which happened when Lisa Haynie asked her to co-chair the Woman’s Focus Group Committee’s spring and fall luncheons. “Attendance at our events has grown tremendously. People love what we’re doing.”

A logical follow up came when Lisa Haynie, who was preparing for her current her role as Chapter president, invited Geri to play an even larger role and join the Chapter board as well.

“In my short time on the board, I’ve gained a greater knowledge of the breadth of the organization,” explains Geri. “At meetings we discuss what the organization stands for and what we have to offer to the membership to stay vital.” Among her goals as a board member is to get more involved with prospective and newer members of the Chapter. She attended Mentor a Student Night last October and found that, “It was very worthwhile to meet the profession’s future employees, and future leaders. It was a terrific forum to be able to give advice to those new to the profession on what we do and have been through over the course of our careers. The event also provided a great avenue for our aspiring accounting professionals to connect with local firms for internship or future job opportunities.”

With Geri’s help, the Chapter has reached out to new not-for-profit-organizations that will benefit from the Chapter’s fundraising efforts. For example, the Women’s Focus Group supports organizations such as Dress for Success. “I am proud to help the Chapter continue its efforts to support the community and am pleased that our efforts so far have been a great success.”

Geri’s background, both as a CPA who’s worked in public and private accounting, as well as her experiences as a working parent, make her an excellent resource for the organization. As the Partner-In-Charge of the Business Advisory Practice at Grassi & Co., Geri manages and directs the firm’s business advisory team, which specializes in a variety of services, including CFO advisory, M&A due diligence and consulting, compliance, financial and risk management, and business optimization services, to name a few.

Her accounting career spans more than 20 years and began at a Big 4 firm. Since then, Geri spent several years in the private sector before returning to public accounting. “It was exciting to have the opportunity to come back into the public sphere. My career path included work as a controller and CFO, which has proved invaluable for my current work. I am able to leverage my experience as a CFO to provide clients with the strategic and financial insight they are looking for when they engage Grassi & Co. to provide CFO Advisory services.”

As early as high school, Geri set her sights on a partnership at a Big 8 firm. “My grandmother worked as a bookkeeper and through her work encouraged me to become a CPA. She took the time to explain her position to me and served as a role model. Back then, women didn’t really work full time jobs, but she did.”

While Geri pursued an accounting degree in college, she accepted an offer for a pre-professional position at Peat Marwick and upon graduation, went on to the firm’s Manhattan office. After close to six years at Peat Marwick, she went to work for a private company on Long Island.

In addition to acquiring a strong understanding of the Long Island business community, Geri’s time in the private sector enabled her to develop a client service approach that differentiates her in the marketplace. “One of the most valuable things I’ve learned is that you really need to understand your client and their business—what issues and challenges they are facing that can’t be read in a financial statement. The most rewarding aspect of public accounting is the opportunity it provides to develop partnerships with clients and help them succeed.”

“Having experience in both public and private accounting, I can confidently say that the Nassau Chapter can play a significant role in one’s career development, regardless of their path. My association with the Chapter is especially beneficial to my own personal and professional development. As such, I am committed to helping the Chapter makes a concerted effort to reach an untapped pool of women who want to get involved and contribute.”

As a board member, Geri looks to expand her knowledge of the inner working of the state society and help make positive changes within the industry. “The amount of information I learned and absorbed in my first board meeting was amazing. The organization is involved in more than I imagined and I relish the opportunity to play a more active role.”

In closing, Geri offers this advice for young people making their way into the profession. “Make sure that you have a passion for what you are doing. If you want to be successful, you need a strong work ethic and the support systems that help you meet personal responsibilities when you have to meet deadlines and complete projects. You have to find what works for you, define your own balance and be willing to change that as your needs change.”
SMALL FIRM MAP COMMITTEE MEETING

January 18, 2013

Topic: Dress for Success, Healthy Eating, Wellness Care

Janine Giorgenti has helped many CPAs, CFOs and Controllers understand the grooming and dressing techniques necessary for presenting themselves in an appropriate, professional, conservative, and effective manner. You are your client’s advisor, helping him or her make critical business choices. Dressing the part is crucial for demonstrating your credibility and successfullness, as well as for better communication.

Carmela Frattasi is a certified wellness coach, and personal trainer. Her primary focus is empowering clients to take charge of their own health and well-being by bridging the gap between the desire to live and be well, and the reality of actually adopting the healthy behaviors needed to achieve these goals. Optimal physical and mental health is the foundation of life at your best, at home and at work. Carmela will be providing practical information and insight into improving your health by eating better, getting fit, and managing stress, even during our busiest tax season.

Speakers: Janine Giorgenti
Carmela Frattasi

CPE: None

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

Place: On Parade Diner, 7980 Jericho Turnpike, Woodbury, NY

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, PFS, CGMA, CFP®, CFS
Eliot Lebenhart, CPA
Kenneth Hauptman, CPA
Alex Resnick, CPA

We look forward to seeing you there!

NYSSCPA – NA S S AU CHAP TER  
Small Firm MAP Committee Meeting 

January 18, 2013

On Parade Diner – 7980 Jericho Turnpike, Woodbury, NY 11797

Pre-register by calling Jean at 516-938-5219, or you can e-mail her at jtownsend@st-cpas.com, or fax 516-938-0491.

Please mail your check to:
Scott Sanders, CPA, PFS, CGMA, CFP®, CFS
Sanders Thaler Viola & Katz, LLP
350 Jericho Turnpike, Suite 1, Jericho, New York 11753-1317

☑ I am enclosing a check for $____ at $25 per person, payable to NYSSCPA – Nassau Chapter.

☑ I will be using my credit memo, which I will bring with me to the meeting.

Name: ____________________________
Firm: ____________________________
Address: ________________________
Telephone: ______________________
Facsimile: _____________________
Cell: _________________________
E-Mail: _________________________
CPA Cert #: _____________________
Signature: ______________________

NYSSCPA – NA S S AU CHAP TER  
Small Firm MAP Committee Meeting 

January 18, 2013

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Signature: ______________________

Please note - meetings are subject to change.
Notifications will be sent to all registered attendees via e-mail should this occur.
*Refund/Credit Policy – If you send payment and are unable to attend the monthly meeting, we will issue a credit to you which will expire in 6 months. There are no refunds.
Small Firm MAP Committee Meeting – December 5th

Photos from Dec 5th SMAP Meeting – On Parade Diner – Topic – Efile issues

(left to right) Eliot Lebenhart (SMAP Committee Chair), Kenneth Hauptman (SMAP Committee Chair), Lisa Haynie (President), Scott Sanders (SMAP Committee Chair), Alex Resnick (SMAP Committee Chair) and Alan Klein (Ace Payroll Sponsor)

Accounting and Auditing Meeting – December 5th

Photos from Dec 5th Accounting and Auditing Meeting – at Grassi – Topic – A&A Update

(left to right) Mark Cuccia (A&A Committee Chair), Mark Goldschmitt (A&A Committee Chair), Jeff Yonkers (A&A Committee Chair), George Victor (speaker), Lisa Haynie (President)

SAVE THE DATE

Becker CPA Review Classes

Come learn some tips and tricks to pass the CPA Examination!

Wednesday, May 22, 2013
Time: 6-8pm • Price: $10.00

Holtz Rubenstein Reminick LLP
Certified Public Accountants | Business Advisers
125 Baylis Road – Suite 300 | Melville, NY 11747
SAVE THE DATE!!!
THE NYSSCPA WOMEN’S FOCUS GROUP
January 16, 2013

A HAPPY NEW YEAR CELEBRATION
NETWORKING, COCKTAILS, HORS D’ŒUVRES & RAFFLES

Here is the opportunity to get connected!!
Bring your networking skills & plenty of business cards.

Co-Chairs: Christine Hallahan, CPA & Geri Gregor, CPA
Location: Wickers Restaurant,
206 West Old Country Road, Hicksville, NY
(Corner of Route 106 and West Old Country Road-CVS Shopping Center)
Agenda: 6:00 – 8:30 P.M. -- Networking
Cost: $40.00 per person
Payable to NYSSCPA Nassau Chapter

Kindly click on the link below for additional information and to r.s.v.p for the event:
http://nysscpawomensfocusgroup.eventbrite.com

The NYSSCPA Women’s Focus Group is supporting Dress for Success, a not-for-profit organization that provides interview suits and other career development programs to low-income women worldwide. We would appreciate your participation. Please bring one item of woman’s professional clothing/attire (in good condition) with you to our Networking Event on January 16, 2013… It could be a suit, blazer, blouse, dress slacks, shirt, shoes, handbag, accessories or scarves.

How wonderful it would be to donate one item in your closet that you don’t need to a woman in need?

NYSSCPA – NASSAU CHAPTER
Small Firm MAP Committee Meeting
February 15, 2013

Topic: Tax Season Issues – Roundtable Discussion
- Review of Proposed 2012 Tax Rates & Brackets & Fiscal Cliff Impact
- Hurricane Sandy Tax Considerations
- Tax Season Procedures & Integration of Portals
- Firm Policies Relating to Tax Season, Overtime, etc.
- Passing on Fee Increases to Clients – How? When? Why?
AND MORE!

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, NY
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, PFS, CGMA, CFP®, CFS
Eliot Lebenhart, CPA
Kenneth Hauptman, CPA
Alex Resnick, CPA

We look forward to seeing you there!

NYSSCPA – NASSAU CHAPTER
Small Firm MAP Committee Meeting
February 15, 2013
On Parade Diner – 7980 Jericho Turnpike, Woodbury, NY 11797
Please pre-register by calling Jean at 516-938-5219, or you can e-mail her at jtownsend@st-cpas.com, or fax 516-938-0491.
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*Refund/Credit Policy – If you send payment and are unable to attend the monthly meeting, we will issue a credit to you which will expire in 6 months. There are no refunds.
Attorney & Accountant’s Networking Event

Photos from November 28th Attorney and Accountant’s Networking event

Neil Katz, Alan Schwartz, Christina Yaccarino, Jill Scher, Kristina Albarella, Chris Bourell and Lisa Haynie

Chris Bourell, Jill Scher, Christina Yaccarino, Kristina Albarella, Lee Perrotta, Alan Schwartz, Neil Katz

Phil Kanyuk (Nassau Chapter Treasurer and Raffle Winner) with Flushing Bank team

Raffle Winner with Lee Perrotta (Chocolate Lady) at Katz Bernstein and Katz Table

Jill Scher, Lisa Haynie, Lee Perrotta (Chocolate Lady) and Kristina Albarella

Lisa Haynie and Bruce LaMarca (Young CPA Chair) – Contributing to Our Chapter’s Toys for Tots Drive

Neil Katz (Raffle Winner) with Lee Perrotta (Chocolate Lady) and the Office Furniture Warehouse team

Lisa Haynie and Kristina Albarella enjoying the comfortable office chairs and delicious chocolate mousse.
Asset Protection Trusts
By Robert S. Barnett, CPA, JD, MS (Taxation) & Rebecca Richards

Asset protection is often an important goal in estate and financial planning. The central vehicle is often a family asset protection trust. In drafting such a trust, the settlor’s intent is of central importance and needs to be clearly presented. A discretionary trust may be the ideal method of providing increased coverage. The law regarding asset protection trusts is a changing area, as the Restatement (Third) of Trusts modifies the traditional approach long promoted by the Restatement (Second). Careful attention must be paid to the trust distribution provisions, and this article presents some practical considerations.

Discretionary Trusts — Generally

Generally, creditors can only reach those assets that have been distributed or to which a beneficiary has an enforceable right. In a pure discretionary trust, the trustee is granted absolute and complete discretion, thereby limiting the beneficiary’s rights. In a well-prepared asset protection trust, the trustee has discretion regarding the amount to distribute, the timing of a distribution, whether to make any distributions at all, and which beneficiaries, if any, will receive distributions.

A distribution provision in a pure discretionary trust might read: “So much, all, or none of the principal may be paid to any, all, or none of the beneficiaries at any time or from time to time, as the trustee, in his or her sole, absolute, and unfettered discretion may determine.” This language can be contrasted with that found in many trusts: “Income and/or principal shall be paid to the beneficiary for health, education, maintenance, and support.” This type of provision is referred to as an ascertainable standard and is less effective for asset protection purposes, due to the use of the word “shall” and due to the fact that a court may determine that beneficiaries or creditors have an enforceable right to a distribution.

In a pure discretionary trust, the beneficiary’s rights are more limited than in a trust with an ascertainable standard. If a beneficiary “shall” or “may for health, education, maintenance, and support” receive a certain amount of trust principal, a trustee could be compelled to make a distribution to a creditor. Conversely, if the beneficiary “may in the trustee’s sole and absolute discretion” receive trust principal, neither the beneficiary nor the beneficiary’s creditors can require that a distribution be made. Note, however, that New York Civil Practice Laws and Rules Section 5205(d)(1) provides that up to ten percent of trust income may be available to a creditor seeking satisfaction of a money judgment. Notwithstanding this ten-percent invasion right, under a pure discretionary standard, both the beneficiary’s and the creditor’s access to the trust fund is limited. It is recommended that the trust also contain provisions regarding the settlor’s intent that the trust not be invaded.

This was the approach long taken by the Restatement (Second), published in 1959. The Restatement (Second) provides that the extent of a beneficiary’s enforceable interest in the trust (and the extent of creditor protection) is determined by the amount of discretion granted to the trustee. Provided that the trustee is afforded “sole, absolute, and unfettered” discretion, the trust is likely to be classified as purely discretionary with complete asset protection.

Restatement (Third)

The Restatement (Third), published in 2003, takes a new approach to discretionary trusts, which is of concern to asset protection planners. According to the Restatement (Third), even if the trust grants the trustee complete discretion, a standard of reasonableness or good faith may be imputed based on “the extent of the trustee’s discretion, the various beneficial interests created, the beneficiaries’ circumstances and relationships to the settlor, and the general purposes of the trust.” The Restatement goes on to state that even if the trustee has complete discretion, “it is rare [ ] that the beneficiary’s circumstances, the terms of the discretionary power, and the purposes of the trust leave the beneficiary so powerless” that a distribution could not be compelled.

The Restatement Third does not provide any absolutes with regard to asset protection, nor does it provide any instruction for drafting a pure discretionary trust in which a beneficiary has no enforceable interest. It is unclear to what extent the courts will interpret and apply this language, and different jurisdictions will likely take different approaches. If the court treats discretionary trusts as if they contain an ascertainable standard, asset protection may be negated or severely limited. Thus, in jurisdictions that have not enacted laws governing the issue, drafters may be advised either to grant the trustee absolute discretion or to draft the trust under the laws of a jurisdiction with a statute affording creditor protection to discretionary trusts. In all events, the settlor’s intent should be clearly established, as this may be a defining characteristic of asset protection trusts.

The Use of Discretionary Trusts in New York

New York has no statute on point with regard to asset protection and discretionary trusts, nor has it expressly adopted the approach of either Restatement (Second) or Restatement (Third). There is, however, ample case law on the subject.

When the trustee is granted complete and absolute discretion, the law “is clear that a creditor … cannot compel the trustee to pay any part of the income or principal to the beneficiary.” Vanderbilt Credit Corp. v. Chase Manhattan Bank, NA, 473 N.Y.S.2d 242, 245 (1984). However, if discretion must be exercised according to a specific standard, there may not be complete creditor protection and the beneficiary (or creditor) may have an enforceable interest.

If the discretionary trust contains an ascertainable standard, a creditor may be able to reach the trust assets. The settlor’s intent is (continued on page 11)
often determinative when examining a beneficiary’s or creditor’s ability to compel a distribution. Take for instance, the case of Estate of Escher, 407 N.Y.S.2d 106 (N.Y. Surr. 1978), affirmed by 52 N.Y.2d 1006 (1981), in which the trust instrument granted the trustee discretion to distribute principal as needed for emergency situations. Here, the court determined, and the Court of Appeals affirmed, that a distribution could not be compelled, as the nature of the creditor’s claim did not constitute an “emergency situation,” as intended by the settlor. The court examined the settlor’s intent through the trust language, the relationships between the settlor and the beneficiary and between the settlor and the remaindermen, the identities of the remaindermen, and “any other pertinent facts indicative of intent.”

As illustrated by Escher, the settlor’s intent will be examined if the discretion is limited by an ascertainable standard. If the creditor can compel a distribution on behalf of a beneficiary, the creditor may be able to reach the trust assets, thereby negating any asset protection. Therefore, in situations where creditor protection is a significant concern, it is advisable to avoid the use of such standards and to grant the trustee complete discretion or, if a standard is insisted upon, to clearly express how the settlor intends for the discretion to be exercised. Additional consideration may be given to placing the trust situs in a jurisdiction that has not adopted the Restatement (Third) or has enacted statutes to enforce asset protection trusts.

In conclusion, the law regarding asset protection and discretionary trusts is currently in flux due to the changes set forth in the Restatement (Third). When asset protection is desired, it is recommended that the trust grant the trustee complete discretionary and clearly express the settlor’s intent to prohibit beneficiaries and creditors from compelling distributions.

Presented by Robert S. Barnett, CPA, JD, MS (Taxation) & Rebecca K. Richards. 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.
On Saturday October 27th the Taxation Committee held its annual Half-Day Tax Conference at the Marriott Conference Center in Uniondale. The topics covered included federal and state tax updates, year-end tax planning strategies, sales tax audits, and the Affordable Care Act, better known as Obama Care. This annual event always draws a large number of tax professionals and focuses on the important current changes to the tax code, key court cases that help shape the tax law and the important issues facing practitioners and our clients for the coming tax season. We thank all the speakers and attendees for an informative and insightful conference.

Michael Cinelli
EisnerAmper LLP
On Saturday December 1st and Sunday December 2nd the Taxation Committee held its annual All-Day Tax Conferences at the Marriott Conference Center in Uniondale. The conference featured presentations on a wide variety of issues facing tax professionals. The topics covered included updates on NYS and local tax, federal tax, estate planning, elder law, tax collections, hedge fund K-1s, qualified pension plans, and casualty losses in the aftermath of hurricane Sandy. The issue of casualty losses raised many questions from the attendees; therefore we are organizing a technical seminar in the month of January. Please check the newsletter and your emails for the actual date.

The taxation committee is in the process of planning the 2013 seminars and welcomes your input at any time. We appreciate the wonderful support of our members and want to wish all of you a happy and healthy holiday season.

Michael Cinelli
EisnerAmper LLP
The CFO & Financial Executives Committee would like to invite CFOs in industry to participate in our monthly meetings. Most of our members are CFOs or the most senior financial person at their company.

The dates and topics for our meetings are detailed below. We look forward to seeing you at a meeting soon.

<table>
<thead>
<tr>
<th>Topic</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax Update</td>
<td>Jan. 15, 2013</td>
</tr>
<tr>
<td>Business Plans / Preparing for Business Sale</td>
<td>Feb. 13, 2013</td>
</tr>
<tr>
<td>Understanding Bank Loan Agreements</td>
<td>Apr. 18, 2013</td>
</tr>
<tr>
<td>Topic to be decided (TBD)</td>
<td>May 16, 2013</td>
</tr>
<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 location: Mineola – Law office of Meltzer, Lippe, Goldstein & Breitstone, 190 Willis Ave, 3rd Floor, Mineola

Committee Co-Chairs
Anthony Aronica, CFO • Graphic Paper • aaronica@GraphicPaper.com • 631-964-8225
Manlio Cañiero, CFO • Scales Industrial • mcafierno@scalesair.com • 516-248-9096 x2614

WeiserMazar’s Long Island office collected 100 toys for Toys for Tots.

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A Technical Meeting Sponsored by
The Taxation Committees
of the Nassau & Suffolk Chapters of the NYSSCPA

Friday, January 18, 2013

Topic:
“Casualty Losses”
Presented by
Robert S. Barnett, CPA, Esq.
Capell Barnett Matalon & Schoenfeld LLP

Date: Friday, January 18, 2013
Location: Holtz Rubenstein Remnick LLP
125 Baylis Road, Suite 300
Melville, NY

Via webinar: FAE Conference Center

Time: 8:15AM Breakfast/8:50AM Seminar

Cost: $15 with breakfast

CPE Credits: 2  Course Code: TBA

Committee Chairpersons: Robert Schaffer, CPA
Robert Barnett, CPA, Esq.
Iola Damante, CPA
Liz Vuozzo, CPA
Kenneth Laks, CPA
Catherine Censullo, CPA

Please email, fax or mail your response to:
Iola Damante, CPA (idamante@grassicpas.com)
Grassi & Co
50 Jericho Quadrangle, Ste 200, Jericho, NY 11753
Fax: 516-256-3510

☐ I will attend for breakfast at 8:15AM at the Melville location and have enclosed a check for $15 per person payable to NYSSCPA Nassau Chapter.

☐ I will attend CPE presentation at 8:50AM, but will not be having breakfast. No payment is required.

Name: ____________________________________________
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City/State/Zip: ___________________________________
Telephone: _______________________________________
E-Mail: __________________________________________
The Hiring Incentives to Restore Employment Act (HIRE) was passed in 2010 and brought about several changes in tax reporting. One of the major components of the law, the Foreign Account Tax Compliance Act (FATCA), was enacted with the goal of raising revenues and deterring tax evasion stemming from U.S. taxpayers with undisclosed income from foreign sources. While 2013 will bring a new phase of withholding requirements on specific payments from certain foreign entities, FATCA also added a substantial disclosure requirement that many individual taxpayers will need to consider. The new reporting requirements began in the 2011 tax filing season, but as we prepare for the 2012 tax season a review of these requirements can help us better serve taxpayers and help them comply with the reporting aspect of the law. It is also worth noting that specified domestic entities will most likely need to comply with these reporting requirements in the near future, though the IRS has not issued regulations finalizing these requirements at this time.

Individual taxpayers report their foreign financial assets on Form 8938, Statement of Specified Foreign Financial Assets. Form 8938 is filed as part of Form 1040, and is required in addition to filing the Report of Foreign Bank and Financial Accounts (Form TDF 90-22.1) (“FBAR”). The requirement to file is based on meeting certain thresholds in three areas: whether the taxpayer is one of the specified individual types; that the taxpayer has an interest in a specified foreign financial asset which is required to be reported; and that the total value of the specified foreign financial assets exceeds the applicable reporting thresholds based on the filing status of the specified individual.

The first determinant is the specified individual requirement. This requirement is based on the individual’s citizenship and residency status. U.S. citizens and resident aliens both qualify as specified individuals. A nonresident alien spouse who elects to be treated as a resident alien in order to file a joint return also meets the specified individual test. Finally, a nonresident alien who is a bona fide resident of American Samoa or Puerto Rico (as defined in IRS Publication 570) also qualifies as a specified individual who is required to report an interest in foreign financial assets.

The second requirement is that the individual has an interest in a specified foreign financial asset. Any financial account (i.e. any depository or custodial account) maintained by a foreign financial institution is considered a specified foreign financial asset. Specified foreign financial assets also include stock or securities issued by non-U.S. persons, interests in foreign entities (e.g. a capital or profits interest in a foreign partnership, or an interest in a foreign trust or foreign estate), and financial instruments issued by non-U.S. persons if the foreign financial assets are not held in an account maintained by a financial institution. Form 8938 and its instructions should be referred to for more information and a more detailed look at what assets meet the definition of specified foreign financial assets, and when an individual has a reportable interest in such assets.

The final aspect to consider when determining the need to report an interest in foreign financial assets is the aggregate value of the assets and the taxpayer’s filing status. Unmarried taxpayers or married taxpayers filing separately and living in the U.S. must report specified foreign financial assets if the total value of the specified assets is greater than $50,000 on the last day of the tax year or greater than $75,000 at any time during the tax year. For married taxpayers filing a joint return and living in the U.S. these thresholds increase to greater than $100,000 on the last day of the tax year or greater than $150,000 at any time during the tax year. Taxpayers living abroad have higher thresholds to meet. Taxpayers living abroad that do not file a joint return must report specified foreign assets if the total value is greater than $200,000 on the last day of the tax year or greater than $300,000 at any time during the year. Taxpayers living abroad who do file a joint return must report specified assets with an aggregate value greater than $400,000 on the last day of the tax year or greater than $600,000 at any time during the year.

With a greater push by the U.S. government to close the tax gap and increase revenue, and with communication technology that allows for easier access to the global economy, it is not uncommon for U.S. taxpayers to hold financial assets outside of the United States. Information returns such as the FBAR and now the Statement of Specified Foreign Financial Assets are becoming more common. There are significant civil and criminal penalties for failure to file. In addition, because Form 8938 is part of Form 1040, preparer penalties are applicable and Circular 230 rules apply.

It is important to determine whether a taxpayer has a disclosure requirement when preparing tax returns, and to be familiar with the filing requirements that were enacted with FATCA. The rules regarding valuation of assets are complex and greater detail, exceptions and specific definitions can be found in the instructions for Form 8938, and on the IRS website at www.irs.gov/form8938.
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 Conferee will listen to both sides, review the documentation, and either sustain the findings, lower or cancel the findings, or request further documentation. A Conferee can never increase the amount due by the taxpayer. Once the Conferee 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.
Save The Date

Laugh, Dance, Donate

60th Annual Installation Dinner Dance

Chartered 1953
Nassau Chapter

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

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10 
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**Checks payable to:**
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Mail check with this form to:
Jean M. Townsend
C/O Sanders Thaler Viola & Katz, LLP
350 Jericho Turnpike, Suite 1
Jericho, NY 11753-1317

**Questions:**
For questions, contact Jean at:
Telephone: (516) 938-5219
Email: jtownsend@st-cpaos.com

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

*A portion of the ticket price will be donated to the NYSSCPA Foundation for Accounting Education (FAE) College Scholarship Account.
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 & NY S) (631) 465-5000

**Taxing Authorities**
- Ruth Satting Betz, CPA (NYS) (516) 249-1919
- Sam Deutscher, CPA (IRS) (212) 249-3230
- 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

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**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

**Joint Legislative Issues Committee**

- Robert Barnett, Esq., CPA (516) 931-8100
  rbarnett@cbslaw.com
- Anthony Basile, CPA (516) 741-5100
  abasile@basilecpa.com

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**N E W  D E A L L I N E S**

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

- Newsletter Issue Submission Due Date
  - January: December 10th
  - April: March 10th
  - May: April 10th
  - September: August 10th
  - October: September 10th
  - November: October 10th

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**Change Form**

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Chapter Member: [ ] Yes [ ] No

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

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