Society weighs in on ‘BitLicense’ proposal

BY CHRIS GAETANO
Trusted Professional Staff

Though the NYSSCPA supports a proposal from the New York State Department of Financial Services (NYDFS) that would govern the transfer and use of virtual currencies among financial intermediaries, it called on the agency to address ambiguities in the language that the Society said would cause confusion, and work to better align the plan with existing processes. The Society weighed in on the matter in October with a comment letter written by members of its Virtual Currency Task Force.

New York state is the first in the country to attempt to create a regulatory framework for online virtual currencies such as Bitcoin, which have become increasingly popular in the past few years. Unlike the dollar, pound, yen and other traditional mediums of exchange, virtual currencies are linked to no one nation and are not regulated by a central bank. Transactions that use them are not processed by an intermediary financial institution.

The state isn’t completely alone in its efforts to make sense of the phenomenon, with the NYSSCPA becoming one of just a few state societies to formally study the topic. In the spring, the Society’s Board of Directors voted to establish the Virtual Currency Task Force to identify for the public and other relevant stakeholders the associated risks and benefits of electronic currencies.

With ICANN bid, AICPA looks to administer .cpa domain name

BY CHRIS GAETANO
Trusted Professional Staff

If the AICPA has its way, the address of your firm’s website might not end in .com or .org, but in .cpa, a new domain name that the institute said will serve as a “globally recognized calling card for CPAs in the digital world.”

In a Nov. 10 statement, the AICPA said it has a pending bid to administer the .cpa domain before the Internet Corporation for Assigned Names and Numbers (ICANN), an international nonprofit that regulates the Internet’s names and addresses. Should ICANN grant the institute’s request, the AICPA would be responsible for overseeing the use and distribution of .cpa to interested parties—and the required technical maintenance that comes with it.

At press time, an AICPA spokesperson said the institute is not discussing cost breakdowns or potential revenue, since the application process is still under way.

The domain name would be available globally, wherever the CPA designation exists, as long as the applicant is recognized by a national body as a CPA. “If you’re recognized by CPA Canada [Chartered Professional Accountants of Canada] and you have the CPA credential, you’ll be able to apply for a domain as an individual or as a firm,” said Erik Asgeirsson, president and CEO of CPA.com, the AICPA’s technology subsidiary.

According to him, the AICPA plans to work with other third parties to help with the administration of the domain name, including its international counterparts. Indeed, the AICPA recently announced that it has reached an agreement with CPA Australia to distribute the domain names to its community members, should the bid prove successful.

Asgeirsson said that the application process, which began in 2012, is now in its later stages. “Our goal is to, hopefully, get a successful award and launch sometime in 2015,” he explained.

The institute can expect responses that run the gamut, from supportive to skeptical. For example, Joel Peck, a sole practitioner and member of the NYSSCPA’s Small Firms Practice Management Committee, said he thinks the .cpa domain is a good idea, but that there needs to be monitoring and consistency in order to prevent it from being abused by those who may not have the best interests of the profession at heart. However, Arthur J. Radin, a member of the Society’s Large and Medium-Sized Firms Practice Management Committee, panned the idea altogether: “I like .com,” he said. “I think a .cpa domain name is silly.”

cgaetano@nysscpa.org
Changing with the times

When people think of CPAs, they think of unbiased, responsible, trustworthy advisors. But more and more, we need to add another adjective to our skill set: nimble. Our profession has undergone a tremendous amount of change in the last decade—the kind that leaves no room for rigidity or small thinking. Success today is tied to the ability to be adaptable, to interpret and navigate shifts even as we stay true to our core principals.

Nowhere is this truer than in our relationship with technology. From real-time audits to cloud computing and smart phones, technology has transformed the way CPAs do business. It’s helped us to be more responsive, faster and innovative in our approach. And just as you’re evolving and adopting new technologies to offer better client and employer services and experiences, the NYSSCPA is too.

With an eye toward the future and the new ways in which information is delivered and used, the Society has been improving its digital interactions with members. This includes a completely redesigned website, nysscpa.org, which will feature much improved navigability; a new, sleek design; and a more personalized user experience. The new site will be launched in the spring of next year.

Moreover, we’ll soon be unveiling a new member benefit, Mentor Match, through the Society’s online social networking platform, Exchange. Mentor Match is a user-driven mentor matching resource; once you’ve enrolled, you’ll be able to register as a mentor or find one for yourself. You’ll also be able to take advantage of special tools that allow you to track your mentoring relationships, participate in discussion forums on mentoring topics, and search for helpful mentoring resources.

In addition, NYSSCPA members are now able to get involved with the Society’s government affairs program through a new interactive legislative agenda section on our homepage at nysscpa.org. Among other things, it includes a custom portal for reaching out to specific legislators on key issues, and the ability to more quickly and easily sign up for the NYSSCPA’s Key Contact Program. Key Contact, which we launched in recent years, helps the Society to utilize member connections in order to open the flow of communication with relevant lawmakers or state officials, and submit timely legislative issues to the Society’s government affairs team.

As the profession changes with the times, it’s important that we who represent it be willing and ready to change as well. I’m excited about what’s to come, and hope you are, too.

president@nysscpa.org

Call for Nominations

The Society’s Nominating Committee is accepting submissions of interest and nominations for the Society’s Board of Directors until Jan. 1, 2015.

This year, the Nominating Committee will be nominating—
• a president-elect (who serves three years on the Board: one year as president-elect, one year as president and one year as immediate past president);
• four vice presidents (who each serve a one-year term);
• a secretary/treasurer (who may serve two consecutive one-year terms);
• five at-large directors (who serve three-year terms); and
• directors from the Buffalo, Manhattan/Bronx, Southern Tier, Syracuse and Westchester chapters (who each serve three-year terms).

Please contact the respective chapter president to express interest in submitting names for chapter Board positions.

Submit all nominations to nominations@nysscpa.org. Before submitting the name of another member for nomination, please confirm that the candidate is willing and able to serve. We also request that you submit a biography or résumé for the candidate, and an email or letter indicating why you or that person should serve on the Board or as a Society officer. To serve on the Board, an individual must be a CPA member of the NYSSCPA for five continuous years and have at least two years’ service either on a statewide committee or a chapter executive board, or a combination of both. Additional information on the nominating protocols can be found online at www.nysscpa.org/page/about-us/governance/nomination-center.
I thought that’s the path most CPAs take. We can help them through it by making a long-term career as a CPA more attractive—addressing work-life integration and finding innovative ways of revamping professional development to reflect the needs of young CPAs.

Women still remain a minority when it comes to leadership in CPA firms, especially at the partner level. Why do you think this is, and what do you think should be done to better attract and promote talented women?

There are definitely opportunities for firms and organizations—as well as for women—to improve in this area. I think we’re probably doing a good job of attracting women to the profession, but, again, we have to think about how we help them to advance and if we’re making them feel included. From a firm/organization standpoint, I think that, sometimes, unintended bias can be a factor, with assumptions being made about a woman’s career trajectory that may not be based on fact. Say, for example, a woman becomes pregnant—there could be an assumption that she wants to step off the fast track because she’s becoming a mother, but that may or may not be the case. I think if there’s better communication and dialogue, a different conclusion might be reached. In my opinion, and from what I’ve observed, I don’t believe that women want to get ahead by virtue of being female. I think what they want is a level playing field. From a female standpoint—because there is room for improvement on both sides—I think women could do better at demonstrating confidence and taking risks. Women, for example, may not be comfortable applying for a job unless they have 100 percent, 90 percent of the aptitude, whereas men would apply for the same position with, say, only 60 percent of the aptitude. So, women need to have more confidence that they can fill that skill gap and apply for the job.

You’ve talked a lot about new paths, new solutions and pushing innovation in the profession. Are there any recent developments that have you excited for the future?

I am fascinated by the possibilities we’re looking at for the future of learning in the profession. I had an opportunity to attend a task force meeting in March about changing the model we’ve used for so long, as far as learning goes, and it has me really excited.

What was the last really good book you read?

The Overachiever’s Guide to Getting Unstuck: Replan, Reprioritize, Reaffirm [by William L. Reeb, AICPA, 2013]. It talked about getting in a rut and not being able to move forward because you’re stuck in certain thought processes and things of that nature. It had some really good, basic, practical information that I have been able to apply to different areas of my life.

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IN OCTOBER, Tommye E. Barie was formally elected as the 2014–2015 chair of the AICPA. A Kentucky native who now calls Sarasota, Florida, home, Barie is a past president of the Florida Institute of Certified Public Accountants and a partner at the firm Mauldin & Jenkins, LLC. She began her career in 1983, later turning her focus to serving governmental entities and not-for-profit organizations. Barie recently spoke with The Trusted Professional about her goals for the coming year and her thoughts on the current state of the profession.

Tell us a bit about your background.

I grew up in West Liberty, Kentucky—a small town of about 3,000 people, east of Lexington—but left to attend Stetson University in Florida. After graduating four years later, I found I preferred the Florida weather and have been living there ever since.

What inspired you to become a CPA?

My mother had a great deal to do with that. Growing up in Kentucky, we had a lot of snow in the winter, and you could only build so many snowmen and take so many sleigh rides before you got bored. So one winter, I asked my mother if she could give me a job, since my parents owned two businesses. She pulled out the ledgers and showed me how to record cash receipts and cash disbursement, and I found it pretty fascinating when I added the horizontal and vertical columns and found the same balance. I started taking accounting classes in high school and declared it as a major once I got to Stetson.

What, right now, do you think is the biggest issue facing CPAs today?

There are a lot of big issues, but one of the most critical is maintaining the reputation and standing of our credential—we’re well known and widely respected globally, but we have competition from a lot of other financial designations. Though we’re in a good position, compared to our competitors, we won’t stay there without some hard work, accountability, integrity and a strong sense of what our clients need.

Your inaugural speech mentioned the need for “relevance, rigor and reach.” How do you intend to utilize your position as AICPA chair to encourage these principles in the profession?

As AICPA chair, you get a pretty large podium. I’ll be going around the country to different conferences and state societies, and I intend to talk about these issues throughout the year with these varied audiences—if you look at my travel schedule, you’ll see I don’t have many days off. This means I’ll have a lot of chances to reach a lot of people in a lot of areas, whether [they be in] public practice, industry, etc.

What’s an uncomfortable truth that you think the profession needs to start accepting?

To stay relevant, the profession needs to reflect the country’s changing demographics—we need to be more diverse and more inclusive. While there has been a fair amount done in this area in years past, we’re still working hard to make progress. In my opinion, the work we’ve done in the past has been more about attracting diverse candidates to our profession; we haven’t done as good a job at retaining and advancing them, which we’re starting to do now. I think the work we’re doing with the AICPA’s National Commission on Diversity and Inclusion is providing some good tools people and firms can use.

Conversely, are there any frequently discussed issues that you think are exaggerated?

People talk about growing complexity, and it’s no doubt an issue for our clients, but the reason we exist as a profession is to help them through it. The AICPA has been helping smaller firms assist clients in dealing with this, particularly through its Center for Plain English Accounting, a national A&K resource center. On the tax side we help CPAs keep pace with the latest regulatory developments, and offer advice on technology solutions through the IT Management and Assurance section and CPA.com. [Ed. Note: CPA.com is an AICPA subsidiary that offers Web-based technology solutions.] All of these initiatives better prepare people for a more complex world.

In your speech, you brought up the contrast between “being a CPA” and people “getting a CPA.” What do you think the profession must do to get more people to “be” CPAs?

I talked about being part of something bigger than yourself. Being a CPA, in my opinion, means being focused on your client and not yourself. It’s about being a trusted business advisor, making sure clients get ahead and bringing...
BitLicense

Continued from front page

At the heart of the state’s proposal, which was released on July 17, is a license that it refers to as “BitLicense.” Entities would be required to obtain one from the NYSDFS if they store, secure, maintain, receive or transmit virtual currency on behalf of consumers; perform retail conversion services with virtual currency; buy or sell virtual currency as a customer business (as opposed to personal use); or control, administer or issue a virtual currency.

In addition, entities would have to follow a number of rules generally intended for consumer protection and anti-money laundering purposes. For example, entities would be required to hold virtual currency of the same type and amount as any virtual currency owed or obligated to a third party, as well as maintain a stringent cybersecurity program. They would also be required to capture certain information, including the identity and physical address of all parties involved in virtual currency transactions, the amount or value of each transaction, when the transaction occurred, and a description of it.

Some Bitcoin companies have panned the proposal, accusing the NYSDFS of being too heavy handed. Overall, however, the Society supported the regulations, writing that it believes “they are a significant first step in providing guidance and clarity to the new and emerging world of virtual currency.” Moreover, Edward J. Torres, chair of the Virtual Currency Task Force, said that with no existing rules for the accounting, auditing or valuation of digital currencies, it was vital that the CPA community weigh in on early attempts at broad regulation.

“It’s important that we get out in front of the issue before the rules are implemented.”
— Edward J. Torres, NYSSCPA Virtual Currency Task Force chair

Such information is sound, it recommended that, instead of creating an entirely new set of requirements, the state have BitLicense applicants provide the same information currently required of those applying for a money transmission license, noting that the two efforts share similarities.

“There’s no need to reinvent the wheel, especially when there are established protocols that have been refined to represent the needs of the public and businesses,” Torres said.

Requirements for the money transmission license include audited financial statements for the next year of the applicant’s operation, statement for the next year of the principal stockholder and principal beneficiary, as applicable, as well as a projected pro forma balance sheet and income and expenses: the Society said.

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It added that entities should also be required to test this program at least semi-annually; the testing should be perimeter-wide, with respect to the entity, regardless of physical location; the results of that testing should be made available to the public; and the timing of the test should be planned, but have an element of unpredictability.

The Society also asked the NYSDFS to consider the unique fraud risk of “double-counting” in virtual currency, where people could take advantage of the transaction timing to effectively clone value in the space between when a transaction is made and when it is recognized.

“One a transaction is initiated by a customer, a second transaction should not be allowed from the same account until the ledger for the first transaction has been settled,” the Society said.

Beyond responses to specific parts of the proposal, the Society recommended that a license’s audit committee be responsible for such elements as the integrity of the financial statements, as they relate to virtual currency; updates to the entity’s risk assessment and risk management guidelines, as they relate to virtual currency transactions; confirmation of the scope of the internal audit function to include the design and operating effectiveness of internal controls over virtual currency transactions; and compliance with legal and regulatory requirements.

The comment period for the proposal ended on Oct. 21. In November, Benjamin M. Lawsky, the NYSDFS’s first superintendent of financial services, said that the department would respond to feedback it received with a revised proposal that would soon be made available for public comment. He also left open the possibility that the next iteration of the proposal may include a transitional license for start-ups, with slightly relaxed requirements.

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Custom or canned? Why software sales often present tax issues

BY CHRIS GAETANO
Trusted Professional Staff

Whether you’re a buyer or a seller, calculating taxes on software sales can be complicated, given the variety of ways in which products are delivered and the number of jurisdictions that may want a piece of the pie. However, the key to sorting through the confusion may well be a question mark, because in order to reach the right answers, entities must first ask the right questions, according to Timothy P. Noonan.

Noonan, a partner at Hodgson Russ LLP and a nationally recognized author and speaker on state tax issues, led a session on the tax implications surrounding the purchase of software at the NYSSCPA’s Business and Industry Conference on Oct. 30. The event was offered as a special benefit for Society members in industry, awarding eight CPE credits for only $50.

A crucial first step in the process, Noonan said, is figuring out whether an entity even owes tax to a certain jurisdiction in the first place. This means that determining nexus—essentially, whether a company is recognized as operating in a state—should be tackled before anything else.

The bar for nexus could be lower than one might suspect. Noonan brought up one case in which an executive took it at the company’s expense to fly to California to play golf. Though the trip was for leisure, the executive took it at the company’s expense and brought some clients along with him. In California, that kind of marketing presence was enough to count as nexus.

According to Noonan, having a physical presence that’s required for nexus in a state can mean several different things—an office, an employee traveling in and out of the state, or an even an independent contractor hired within the state. As an example, Noonan pointed to a client, a Los Angeles-based software vendor, that wanted to hire an employee who was based in Louisiana and who’d planned to telecommute from home. “Many states would say the presence of a home office employee is enough to create nexus,” he pointed out.

Once nexus is determined, the next step will be to work out the tax implications. Noonan said that one of the most common questions that a state might ask is if the software is “custom” or “canned,” meaning was the product made specifically for the company, or was it an off-the-shelf or generally available program that the company happened to have paid for.

Why is this an issue? For the purposes of state sales tax, jurisdictions “treat software … as tangible property, for the most part,” Noonan said. However, if it’s customized software developed for a particular person or entity, it’s considered to be a nontaxable service transaction.

Determining if the software is custom or canned isn’t always so easy. Tax rules say that software is custom when it’s created to the specifications of a specific user. But what if a company wants a canned product to be modified to fit its business practice, and has those modifications made after lengthy consultation with the vendor? For tax purposes, Noonan said, it would still be considered a canned product, though heavily modified.

To simplify things, companies in some jurisdictions may be able to separate the modifications and the base product. This way, the entity is still paying taxes on the original software, the cost of modifications is not, in itself, taxed.

However, Noonan warned, different states have different rules on what can and can’t be separated. For example, he explained that New York has what’s called the “cheeseboard rule”: You can’t tax cheese, but you can tax a cheeseboard. If a company bundles nontaxable cheese with a taxable cheeseboard, he said, the entire cost of both cheese and board are taxed, because they’re offered as one product.

Another important consideration: Is there a hard copy of the software? Though hard copies of software are taxed, the exact same computer code, downloaded off the Internet, may not be, depending on the jurisdiction. Thirty-three states, including New York, tax electronic software downloads.

Entities with multiple locales—for example, a law firm that has branches in New York City, Buffalo, Florida and Toronto—that purchase software should also keep track of how many of its staffers use the product within a certain state. Most states, in determining sales tax liability, have some sort of threshold that entities must meet, meaning the software may not be 100 percent taxable just because one person in New York uses it, Noonan said.

Additional considerations

Noonan also said that he sees a lot of tax issues when it comes to software maintenance services, since many vendors not only sell the software but maintain it as well. Again, sales of products, he continued, tend to be taxable, while sales of services are only taxable if a state specifically says they are. In New York, he said, software maintenance is not taxed. Regardless, he said, it’s important to remember to separately state the two.

Things become more complicated when considering cloud computing, where data are stored on remote servers and accessed through the Internet. Using TurboTax as an example, Noonan said the purchaser might be left wondering, “Did I buy software? A tax prep service? What am I buying there? Did I buy something taxable?”

Though New York state issued a ruling saying that cloud computing, in this context, is taxable, Noonan added that there has been one litigated case involving the ruling, which the state lost.

Considering all these factors, he said that companies need to be mindful about whether their use of cloud computing software carries unexpected tax implications.

In closing, he reminded the audience that it wasn’t just manufacturers and contractors that run into problems with sales tax. “You see sales tax audits of law firms and doctors and accounting firms—firms that don’t sell taxable things, but buy a lot of taxable things like computers and desks and chairs and software,” he said. “Are you paying use tax on what you buy?”

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NYSSCPA comment letters

The following list includes all comment letters released by the NYSSCPA between Nov. 1 and Nov. 30. To read all comment letters published by the Society, visit http://www.nysscpa.org/page/society-comment-letters.

Comments to the FASB on a Proposed Accounting Standards Update — Intangibles — Goodwill and Other — Internal-Use Software (Subtopic 350-40), Customer’s Accounting for Fees Paid in a Cloud Computing Arrangement: Released Nov. 18 — Comments on a proposed accounting standards update that the Board proposes to add guidance to Subtopic 350-40, Intangibles—Goodwill and Other—Internal-Use Software, that would help entities evaluate the accounting for fees paid by a customer in a cloud computing arrangement.

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FAE speaker: AML compliance becoming more nuanced, risk-based

BY CHRIS GAETANO
Trusted Professional Staff

The path toward regulatory compliance in the sanctions and anti-money laundering arenas has changed significantly over the years—and if entities want to avoid making costly mistakes, their approach must change with it, according to Robert Werner, a featured speaker at the NYSSCPA’s Anti-Money Laundering Conference on Oct. 23.

Werner, the global head of financial crimes compliance for HSBC, said that in the past two decades, compliance as a discipline has gone from a side duty that the company counsel might take on in addition to his or her other tasks, to a specialized function overseen by experts. “[Years ago], there were no compliance departments—there were lawyers who did some compliance and regulatory advisory work,” he said.

But that changed as a new understanding of compliance emerged. While a few decades ago, it was primarily a black-and-white rules-based discipline focused on a “here’s what the rule says” and “I am good, I am bad,” kind of thinking, it has evolved into a more holistic approach that takes gray areas into consideration and, therefore, requires more professional judgment, according to Werner.

Those companies that continue to treat compliance as a rules-based legal function are probably not doing well in managing compliance risk and, [as a result], are very exposed to enforcement action,” he explained. “Now we know we need to view compliance as a holistic discipline that has to cut across our financial institutions.”

This view is reflected in staff changes at major financial institutions: Since 2012, for example, JP Morgan has hired 13,000 new employees devoted specifically to regulatory and compliance issues, while Wells Fargo has increased its compliance and risk spending by about $100 million over the past year, according to an Oct. 26 article in Investment News.

A key component of this new outlook is a focus on risk. As opposed to the bright-line approach that companies practiced before, compliance must now be placed within a risk analysis framework, according to Werner, which means that entities need to consider how they can identify what the risks are, where the risks are and what the entity needs in order to deal with them. Questions like this can form the basis for a profile that can be applied to risk management.

As an example, he said that a company might learn from the profile “that if you onboard a customer, you need to know much more about their clients than before, and be willing to share that information. Before, he said, connections between a bank branch and the larger institution as a whole were “pretty tenuous.” However, he added, this cannot be the case today—global institutions must now be vetted with [the board and regulators] and cascaded throughout the staff with training.”

He admits that this sort of framework can be scary, especially for entities that had been taking a mostly rules-based approach before. However, he said, it’s the reality of the world now, and entities can either adapt to it or fall behind those who do.

He also said that, from an anti-money laundering standpoint, financial institutions must know much more about their clients than before, and be willing to share customer and transaction data across borders, or else they won’t be able to provide the necessary level of detection and prevention.

“The days of institutions getting to be agnostic about who their customers are and what they do are over,” he said. “We’re responsible now for our customers—we’re expected to watch them, to report on them, to exit them if they are not behaving appropriately or within our risk appetite. . . . It doesn’t matter if you like it or not—it just is. It’s a fact.”

This is also true, he said, when it comes to sanctions. Though in the past, sanctions took the form of a list of countries that no one could do business with, today, Werner said, they are more targeted, applying to specific entities or specific industries. This has led to new complications for banks, where it may be OK to provide some services but not others. To enforce these sanctions, he said, banks need to know not only who they do business with, but who their clients do business with, as well.

“I remember a regulator talking about Section 312 of the USA PATRIOT Act, saying ‘Don’t worry, banks—you don’t need to know your customer’s customer, just your customer, and if you do that, you’re OK,’” Werner said. “That was true then, but not now. We do need to know our customer’s customers. . . . You better darn well know who your customer’s customers are and what the risks associated with them are. The regulators expect you to monitor.”

_cgaetano@nysscpa.org_
New York City and the state of New Jersey have recently enacted several statutes that impose various obligations on employers who do business in those jurisdictions. These provisions include additional employment protection for pregnant employees or those affected by pregnancy, protection for victims of domestic or sexual violence and protection for job applicants with a criminal history. Here's an overview of the changes:

Pregnancy accommodations under New York City Human Rights Law

In an amendment to its Human Rights Law, New York City recently joined the ranks of other U.S. cities and states in the country that have passed laws providing more protection for pregnant employees. The New York City law now requires employers with four or more employees that also know or should have known of an employee’s pregnancy, childbirth and related medical conditions to provide reasonable accommodations for those conditions. Employers are also required to provide both a notice of rights to its employees upon hiring and to display a poster explaining the law.

“Reasonable accommodations” under this amendment include bathroom breaks, leave for a period of disability arising from childbirth, breaks to facilitate increased water intake, periodic rest for those who stand for long periods of time, assistance with manual labor and unpaid medical leave. Notably, the only basis an employer has for declining to extend a reasonable accommodation under this amendment is if the accommodation poses an undue hardship to the company. Whether a proposed accommodation constitutes an undue hardship is a case-by-case factual inquiry that requires consideration of such factors as cost, the size of the employer and the impact on the employer’s operations.

Pregnancy accommodations under New Jersey law

On Jan. 21, 2014, New Jersey implemented a provision that’s similar to New York City’s Human Rights Law amendment—the Pregnant Workers Fairness Act (PWFA), a law that prohibits discrimination based on pregnancy, childbirth and childbirth recovery. It applies to all New Jersey employers—with the exception of federal employers—and requires those covered employers that know or should have known that an employee is pregnant or affected by pregnancy to make reasonable workplace accommodations for those employees who request accommodations based upon the advice of their doctors. Such accommodations include bathroom breaks, modified work schedules, assistance with manual labor and temporary transfers to positions requiring less strenuous or less hazardous work.

Under the PWFA, an employer is not required to provide the employer’s requested accommodation if doing so would pose an undue hardship to the employer; however, companies should be diligent in their evaluation of requests for pregnancy accommodations, in view of the fact that the PWFA—similar to the New York City Human Rights Law—creates a private right of action for failure to make a reasonable accommodation.

NJ SAFE Act

New Jersey recently implemented the NJ Safe Act (the New Jersey Security and Financial Empowerment Act), which provides a new layer of protection to employees who have been victims of domestic or sexual violence, or whose child, parent, spouse, domestic partner or civil-union partner was the victim of such an act. New Jersey requires employers to provide up to 20 days of unpaid leave during any 12-month period to eligible employees; however, the employer may require an employer to use accrued paid leave during this time, and may also require that employees use leave under the Family and Medical Leave Act (FMLA) concurrently with SAFE Act leave, assuming that the reason for the SAFE Act leave is the employee’s eligibility for FMLA leave and assuming that the reason for the SAFE Act leave would also qualify for leave under the FMLA (e.g., an employee’s serious health condition). Employers must also display a poster (available on the New Jersey Department of Labor and Workforce Development website) that explains employees’ rights under the SAFE Act.

In order to qualify for SAFE Act leave, an employer must have worked for an employer for at least 12 months and for at least 1,000 hours in the 12-month period immediately preceding the leave. Furthermore, the employer must use the time off within one year of the underlying event or incident. Finally, the employer must provide the employee with as much advance notice of the need for the leave of absence as possible, under the circumstances.

The New Jersey SAFE Act provides that any unpaid leave time taken as a result of this act may be used for the purposes of seeking medical attention for physical or psychological injuries; obtaining services from a victim services organization or to pursue psychological or other counseling; participating in safety planning for temporary or permanent relocation; seeking legal assistance to ensure the health and safety of the employee or the employee’s relative; or attending, participating in or preparing for a criminal or civil court proceeding related to an incident of domestic or sexual violence.

In addition to providing victims of domestic violence with unpaid leave, the SAFE Act also prohibits an employer from discriminating or retaliating against an employee who requested or took leave under the act.

In addition to providing victims of domestic violence with unpaid leave, the SAFE Act also prohibits an employer from discriminating or retaliating against an employee who requested or took leave under the act.

New Jersey “ban-the-box” law

New Jersey recently passed the Opportunity to Compete Act, which is one of several “ban-the-box” laws that have been enacted by various municipalities in the United States. (The “box” in question is found on many employment applications and asks applicants to state whether they have been convicted of a crime.) Under this law, which goes into effect on March 1, 2015, employers in New Jersey with 15 or more employees over 20 calendar weeks are prohibited from asking applicants about their criminal record during the “initial employment application process,” defined as beginning with the initial contact between an employer and an applicant about a job vacancy and ending with the completion of a first interview. (This law does not apply to law enforcement, corrections, judiciary, homeland security and emergency management employers.) If a prospective applicant voluntarily discloses a criminal record, the employer is permitted to make inquiries about it.

The Opportunity to Compete Act strives to find a balance between enhancing the employment opportunities of individuals with a criminal background and an employer’s ability to hire applicants as it wishes. Though this new law prohibits employers from inquiring about an applicant’s criminal record during the early screening process, employers may ask applicants about their criminal record following an initial interview. In addition, it is important to note that this law does not change an employer’s right to refuse to hire an applicant because of a criminal record, provided that information was requested only after the completion of the initial employment application process and provided that such refusal does not conflict with other relevant federal and state laws.

Jonathan A. Weixer, Esq., is a shareholder at Vedder Price and a member of the firm’s labor and employment practice area in its New York office. Kaitlyn Fallon, Esq., is a first-year associate at Vedder Price.

This story originally appeared in the NYSSCPA’s Tax Stringer.

UPCOMING INDUSTRY COMMITTEE MEETINGS

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This is a partial listing, which is subject to change. For a complete and updated listing of meetings, visit www.nysscpa.org, click on “About Us,” and choose “Committees” from the drop-down menu.

Interested in joining a committee?

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As deadline looms, N.Y. CPAs still have opportunities for CPE

BYTRUSTED PROFESSIONAL STAFF

The clock is ticking, the stage is set: Dec. 31 marks the end of the continuing professional education (CPE) year for New York CPAs, which leaves just a few weeks to tie up any lingering requirements. Otherwise, according to the New York State Board for Public Accountancy, you could be in for a bumpy 2015.

All licensed CPAs in the state, including those in industry, government and academia, are required to complete annually either 40 hours or 24 hours (in a single concentrated area) of CPE credits in the following subject areas: accounting, advisory services, attest, auditing, specialized knowledge and applications related to specialized industries, taxation, or another area approved by the State Education Department (SED).

Ultimately, within the triennial licensing period, CPAs will have completed a minimum of 120 CPE hours (or 72 hours of specialized education) in maintaining the registration of their licenses. CPAs are exempt from the mandatory CPE requirement only for the triennial registration period in which they are first licensed. According to state law, the only exception to this rule is for reasons of health certified by a physician, for extended active duty with armed forces of the United States, or “for other good cause acceptable to the department which may prevent compliance.” These exceptions must be granted by the SED.

Licensees who supervise attest or compilation services, or sign the accountant’s report on financial statements (or authorize someone to sign them), must have completed 40 hours of CPE in audit, accounting and/or attest during the three years immediately prior to performing such services.

Possible penalties: what happens if you don’t fulfill your annual CPE requirement? If you don’t fulfill your annual CPE requirement by the end of the calendar year, state law mandates a straightforward penalty: Your attempt to reregister your license with the state will be denied, which means you’ll have to stop practicing or providing your employ- er with CPA services “unless and until the CPE requirement has been met, satisfactory to the department.” A CPA who fails to meet the annual mandatory CPE requirements could also be subject to disciplinary action, which can include fees/fines of up to $10,000 per specification and, potentially, revocation of the license. Filing a false report with the SED constitutes unprofessional conduct, and would incur the same consequences.

To ensure that licensees are meeting the requirements and reporting their compliance truthfully on reregistration, the SED conducts random audits of CPE compliance each month. The SED may issue conditional registration to a licensee who did not meet the deadline but agrees to make up the deficiencies and take any additional education required. There’s no guarantee, however, that a conditional registration will be issued, and continuing to practice following notification by the state of registration denial is cause for disciplinary proceedings.

Need ideas for where to get your CPE during the end-of-the-year scramble? Live CPE conferences, seminars and technical sessions are offered year-round by state-approved sponsors, like the Foundation for Accounting Education (FAE). Many of FAE’s webinars are converted to on-demand self-study programs that can be completed at your pace, from your home or the office.

Further, many statewide NYSSCPA committees frequently offer free CPE opportunities. While these sessions are usually worth 1 to 2 credit hours, they’re typically held during regularly scheduled committee meetings. NYSSCPA committees also produce breakfast and evening technical sessions that are worth 2 and 3 credit hours, are offered at discounted rates for members and can be made available via webcast for those unable to attend in person.

Moreover, ethics credits work double-duty. Think you have to tack on an additional 4 credit hours to satisfy the state’s ethics education requirement? Not quite; when you complete the mandatory 4 CPE hours of ethics, they’re rolled into your overall CPE total for the calendar year in which they were completed. So, get your ethics courses out of the way as early as possible.

But if you’re still looking for ways to rack up the coveted credits, consider these additional methods buried in the CPE regulations issued by the SED:

• Teach a CPE course. Teaching a course offered by an approved sponsor can earn a CPA up to 2 additional credit hours for each hour taught (a nod to the time spent preparing the class). That means teaching a CPE course worth 3 credit hours could earn the instructor up to 9 total hours—nearly one-quarter of the annual requirement.

• Take a credit-bearing course from an accredited college or university. Any courses taken for credit at a regionally accredited college or university can earn you CPE, as long as those courses fall under one of the state-approved CPE subject areas and are not already required for licensure. Whether you’re already enrolled in a program of study or considering taking classes part time, keep your CPE in mind when you register for classes next semester.

• Teach a credit-bearing course. Teaching a credit-bearing course in one of the approved subject areas at a regionally accredited college or university will garner the teacher 15 credit hours per semester (or 10 per quarter semester).

For more long-range planning, you might also consider authoring a book or an article published in a peer-reviewed journal, such as The CPA Journal. The weight-loss blog you’ve been working on won’t cut it, but if you author a book or an article published in a peer-reviewed journal that addresses one or more CPE subject areas, you could earn some extra CPE credit. The number of credit hours your book or article will earn is subject to the state’s discretion, so notify the SED as early as possible to verify that the topic is creditworthy.

Bear in mind, though, that the above methods can only be used to earn half the total number of annual CPE credits. Contact the SED to find out if a course that you intend to take for CPE credit is approved.

The SED requires licensees to maintain records of completed courses and credits earned (including program title, number of credits awarded, the sponsor’s name and state sponsor number, and the program date and location) for a minimum of five years after completing the course, and to make such records available for review upon request. NYSSCPA members can track CPE they’ve earned in FAE courses by visiting the Membership Data Center at nysscpa.org.

Generally, if professional records that you are required, after taking reasonable steps, to maintain safely are damaged or lost due to a disaster that was beyond your power to prevent, you would generally not be subject to a charge of professional misconduct, according to the state Office of the Professions. You should try to establish a listing of such files as soon as possible after the disaster, however, and record the circumstances and date of the loss for future reference.
NYSSCPA members who provide tax services to clients, including tax return preparation, and represent clients before the IRS and New York state, are subject to various rules from a variety of sources. These include the AICPA Code of Professional Conduct, which the NYSSCPA adopted as its own conduct code in May 2013; the AICPA Statements on Standards for Tax Practice; the New York State Board of Regents (NYS Accountancy Regulations); and Circular 230, which describes rules governing practice before the IRS for CPAs and other authorized practitioners, including attorneys and enrolled agents.

Recently, there have been several rule changes that NYSSCPA members should take note of:

• A revised AICPA/NYSSCPA Code of Professional Conduct will take effect on Dec. 15. The most significant difference between the old and new code is mainly in how it’s organized. Members of the NYSSCPA’s Professional Ethics Committee (PEC) give a detailed take on the changes at http://bit.ly/1zAy4TP. The code itself can be viewed on the NYSSCPA’s website at http://www.nyscpa.org/prof_library/ethicsregulation.htm.

• Circular 230 was revised, with changes effective as of June 12, 2014. As one of the biggest developments for tax practitioners this past year, this requires special attention; see below for an overview of the most important revisions.

Circular 230: what you need to know

First, to clear up any confusion, neither the IRS nor its Office of Professional Responsibility (OPR) has been designated as a standards-setting body by the AICPA Council. Moreover, the rules in Circular 230 are not directly addressed in the Code of Professional Conduct. Still, this does not mean that failure to comply with the regulations listed in 230 will not create problems for you; unlike the many pamphlets that the IRS publishes offering guidance or helpful suggestions, Circular 230 is actual law, and not following the rules can bring serious penalties. For one, should a practitioner be suspended from practice before the IRS by the OPR, it is likely that the AICPA will open an investigation.

At the end of the day, Circular 230 is a good source of guidance for maintaining integrity, using due diligence and managing conflicts of interest, and practitioners providing tax services to clients are strongly urged to become familiar with it.

Here are the major changes to the regulations:

• Before this year’s overhaul, Circular 230’s Section 10.35 included “covered opinions” rules, a series of complicated edicts governing tax advice that the IRS implemented a decade ago to cut down on abusive practices. As a result of the rules, many practitioners began overusing what became known as the Circular 230 disclaimer in emails. The disclaimer stated that “any tax advice contained herein is not intended . . . to be used for avoiding tax related penalties . . . .”

In the newly revised Section 10.35, however, the covered opinions rules have been stamped out, a move championed by Karen L. Hawkins, director of the OPR. Hawkins maintained that the rules were burdensome and hard to enforce, and, with their elimination, she has also called for practitioners to stop using the Circular 230 disclaimer. She has repeatedly stated that failure to do so may result in a cease and desist letter from the OPR.

• Section 10.35 now includes a new competency standard, which states that “a practitioner must possess the necessary competence to engage in practice before the IRS” and that “competent practice requires the appropriate level of knowledge, skill, thoroughness and preparation necessary for the matter for which the practitioner is engaged.” A practitioner may become competent through various methods, which include consulting with experts in the relevant area or studying the relevant law.

• Revisions to Section 10.36, “Procedures to Ensure Compliance,” expand the methods that are designed to ensure compliance with Circular 230. The regulations state, in part, that any individuals who have or share responsibility for overseeing a firm’s tax practice take reasonable steps to ensure that the firm has adequate compliance procedures in place for all members, associates and employees. The individual(s) having principal authority will be subject to discipline for failing to ensure compliance with this Section. What’s more, if a firm does not identify someone as having the principal authority, the IRS may do so itself. A word to the wise: Be thoroughly familiar with the requirements of Section 10.36 in order to protect yourself from noncompliance.

• The old rules under Section 10.35 have been replaced with Section 10.37, “Requirements for Written Advice,” which provide much simpler requirements for all written advice. (Written advice can mean anything put in writing, including emails, handwritten notes—including those on Post-it notes—and so forth.) Performing due diligence should ensure that you have relied on reasonable factual and legal assumptions, reasonably considered all relevant facts and expended reasonable efforts to identify and ascertain those facts. Additionally, do not rely on representations, statements and findings, if you know or should know that they are incomplete, inconsistent or incorrect.

In closing, best practices suggest a complete understanding of all the rules in Circular 230. But, at a minimum, members should read and be familiar with these changes to Sections 10.35, 10.36, 10.37 and 10.51.

P. Gerard Sokolski, CPA, is a past president of both the NYSSCPA and its Foundation for Accounting Education. A retired tax partner of Mengel, Metzger, Barr & Co. LLP, he currently has a tax practice in the Las Vegas area and resides in Summerlin, Nevada.

Did you know?
Believe it or not, Circular 230 has been around for a long time. In 1886, Title 31, Code of Federal Regulations, Subtitle A, Part 10, gave the U.S. Secretary of the Treasury authority to regulate tax preparers and others; Circular 230 was later published on Feb. 19, 1921.
Five common data security mistakes to avoid in 2015

BY RANDY R. WERNER, CPA, J.D., LL.M./TAX

Protecting your firm’s data, including confidential client information, is a critical part of doing business today—that much has been made clear by the series of high-profile cyberattacks dominating the news this year. What’s more, many of the data security problems that cause major losses for CPA firms can be prevented by reasonable data security policies and protective measures. Below are five common security mistakes that firms are often guilty of, along with recommended steps to help your own firm prevent them.

1. Failing to report a lost data-bearing mobile device immediately
   By the year’s end, many employees across a variety of professions will have lost or “misplaced” an unencrypted data-bearing mobile device (e.g., USB drive, smart phone, laptop computer). The more unfortunate part, however, is that most of those employees will also fail to report the loss immediately, either because they’re embarrassed, worried about losing their job, or think they just misplaced the device and will find it soon. Every firm should therefore persuade its leadership and all other employees to adopt a strict policy that requires them to report losses immediately. Your firm will want to begin the data retrieval process right away for business reasons, and many states have enacted laws requiring that clients be notified within a short period of time following the detection of a data loss.

2. Sending unencrypted email attachments of confidential data
   The vast majority of states have data breach laws that require notices to be sent to all affected persons if confidential data is not encrypted and is then compromised. Firms should develop a policy that requires encryption of all confidential files and attachments. Encryption of hard drives and individual data elements, such as Social Security numbers, is also excellent protection.

3. Copying confidential data onto a portable drive
   Some employees copy confidential data onto USB or other removable drives, even though their company policy prohibits it. CPA firms often have to copy such data because they have employees who need to work outside the office. A sound approach is to create a policy of checking the USB drive: Have the employee put the drive into a computer and remove completed or noncurrent materials by moving them back to the appropriate files on the network. Doing so will limit a potential loss of data on the drive if it is ever lost or stolen.

4. Downloading personal software onto a company computer
   The danger of downloading personal software is that it may contain malware, viruses or worms that allow hackers to access a computer. Firms should have a policy prohibiting employees from downloading free movies, music or other software, unless the vendor and product are highly reputable. Firm policy should also limit Internet usage to legitimate websites only. Many websites are not well maintained and can be breeding grounds for computer viruses and malware. Moreover, illegitimate websites—both foreign and domestic—can exploit software weaknesses in order to install malware on computers. Employees who play online games on work computers also run the risk of downloading viruses to the computers.

5. Sharing passwords with co-workers
   Though most firms have policies forbidding the sharing of passwords, many employees reveal them to trusted co-workers. If an employee causes a data security problem, co-workers who shared their password with that person may be blamed for the problem as well. A simple means of protecting the firm’s data is to require employees to change their passwords often. Automated systems that require password changes at least every 90 days can help in this regard. Changing passwords frequently will help minimize the potential damage from a problem employee having someone else’s password. Also, employees should use strong or complex passwords—a combination of both lowercase and capital letters, numbers and special characters, such as @, & or #.

Many software companies issue software security updates to help ensure that software is secure from common threats that are identified, and most updates are applied automatically online. If your firm’s software does not have an automatic update feature, develop a business practice to check for the latest updates. Also, provide training on data security risks, policies and best practices for all firm members on a regular basis, and be diligent about enforcing the firm’s policies. Having robust and updated data security systems in place is always a good idea.

Randy R. Werner, CPA, J.D., LL.M./TAX, is a loss prevention executive with Camico (www.camico.com). She responds to Camico loss prevention hotline inquiries and speaks to CPA groups on various topics.

For information on the Camico program, call Camico directly at 800-652-1772, or contact: (Upstate) Reggie DeJean, Lawley Service, Inc., 716-849-8618, and (Downstate) Dan Hudson, Chesapeake Professional Liability Brokers, Inc., 410-757-1932.

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How did the profession fare in 2014? The year in review

BY TRUSTED PROFESSIONAL STAFF

With 2015 just around the corner, here’s a final look back at the developments that left a mark on the accounting world—locally and nationally—this year. See our CPA Roundtable on page 19 for members’ takes on the year that was, and share your own thoughts about 2014 by tweeting @nyscpa #YearInReview.

A wave of cyberattacks leaves businesses weary

This year, a number of corporations suffered cyberattacks, in which the information of their customers and/or employees was compromised by outside hackers. Though businesses hastened to reassure the public, many took action that belied the true significance of the assaults. Notably, Target ousted its then-CEO Gregg Steinhafel, and JP Morgan is expected to roughly double the $250 million it already spends on online security.

According to the Secret Service, hackers actively scan corporate systems for remote access opportunities—for example, a vendor with remote access to a company’s systems or employees with the ability to work remotely—and then use computers to high-speed guess usernames and passwords, until they’ve landed on the right combination.

From there, the hackers are able to travel through corporate networks until they can gain access to the cash register systems, where they scrape payment card data off. Experts believe that millions of American consumers’ payment card details are being sold on the black market, many of them from U.S. companies that do not know that their systems have been breached.

In September what it called its first, targeted steps to make it harder for U.S. companies to reduce their tax bills by merging with foreign firms and moving abroad—a practice otherwise known as “tax inversion.” Companies only have to pay U.S. tax on their foreign earnings when they bring those earnings back to the United States. But an inverted company can get around that rule by having a foreign subsidiary it controls make a “hopscotch” loan to the new foreign parent, thereby bypassing the U.S. company. However, the Treasury ruled that it would now consider such loans as U.S. property in many instances and treat the money as a taxable dividend.

Regardless of political affiliation, however, most people participating in the inversion debate agree that the U.S. corporate tax system needs to be changed, including the NYSSCPA. The Society commented on the matter in August, calling sustainable corporate tax reform “the elephant in this room.” —JW

Long-awaited revenue recognition standard is released—but its implementation may be delayed

In May, the Financial Accounting Standards Board (FASB) and the International Accounting Standards Board (IASB) released a final version of the revenue recognition standard, capping off six years of discussion, outreach, exposure and re-exposure on a proposal that promises to introduce fundamental changes to current practices.

But just six months later, both boards said they were considering delaying the implementation date of the standard, which was meant to take effect in 2017, after hearing feedback from various stakeholders. As of press time, the boards are in the middle of a large outreach effort and are expected to make a decision on a possible deferral, at the conclusion of the process.

The final standard is part of the FASB–IASB convergence project and is meant to address what both boards saw as deficiencies in current revenue recognition practice

R.I.P., audit rotation

After spending years advancing the concept of mandatory auditor rotation—essentially, term limits for audit firms—the Public Company Accounting Oversight Board (PCAOB) made a big shift in February when it announced that it would abandon its push to require that public companies periodically swap audit teams. PCAOB Chair James R. Doty acknowledged the tactical change during a budget meeting with the Securities and Exchange Commission (SEC), though he said that the board will continue to think about ways to enhance auditor independence.

The PCAOB first put forward the idea of auditor rotation in an August 2011 concept release. Among other things, it argued that there was a “fundamental conflict” in the current auditor compensation model, and that many audit failures sprang from a lack of professional skepticism and independence. The pitch was met, however, with a flurry of criticism from the CPA community, including the NYSSCPA, which questioned the idea that mandatory rotation would help independence and warned that it would degrade audit quality. Even Congress weighed in—in 2013, the House approved the Audit Integrity and Job

Members of the Public Company Accounting Oversight Board (PCAOB). According to Chair James R. Doty (center), the board has abandoned its push to require that public companies periodically swap audit teams, though it will “continue to think about ways to enhance auditor independence.”
cies in their existing approaches. While quite long and complex, its main principle is that transactions should be centered around the creation and fulfillment of contracts, each made up of its own individual performance obligations, with revenue recognized as these obligations are completed. —C.G.

"Attest" takes on new meaning

In May, the AICPA, along with the National Association of State Boards of Accountancy, released the seventh edition of the Uniform Accountancy Act (UAA), a model law meant to provide a uniform approach to regulating the accounting profession. The new UAA introduced major changes in what it means to perform attest services. While before, attest only covered examinations of prospective financial information, the act now defines it as any examination, review or agreed-upon procedure engagement performed utilizing Statements on Standards for Attestation Engagements (SSAE). The new definition was passed, recognizing that, over the past decade, CPA firms have been increasingly called on to provide attest services not originally encompassed in previous definitions. Moreover, the old definition led some non-CPAs to believe that they weren’t restricted from using SSAE language or standards. Under the new UAA, non-CPAs—while still able to offer these services—cannot reference accounting profession standards. —C.G.

Court sides with IRS in AICPA battle

In October, a federal court dismissed a lawsuit the AICPA had filed challenging the IRS’s attempt to implement new education and testing requirements for tax return preparers. The suit, launched in July, took aim at the Annual Filing Season Program (AFSP), a voluntary IRS initiative that allows uncredentialed tax preparers to represent clients before the IRS and obtain a certificate from the service, provided that they register with the government, take 18 hours of continuing professional education and take a competency test.

Among other things, the AICPA said the effort was an attempt to circumvent the Federal Taxpayers Remedy Act, which struck down a mandatory tax preparer registration program that the IRS had tried to carry out. The institute further contended that the program is voluntary in name only, arguing that the advantage it would give to tax preparers would cause market forces to make it de facto mandatory. The court, however, ruled that the AICPA lacked the authority to sue because it represented CPAs, rather than the unenrolled tax preparers who would be affected by the program. The AICPA said it was “surprised and disappointed” by the ruling and is currently considering its options. —N. Sheree Saunders

Virtual currency gets real regulations

With growing public interest in virtual currencies—which are tied to no one nation and are not regulated by a central bank—regulatory authorities spent much of the year trying to determine how the phenomenon fits into the larger financial framework. On the federal level, the IRS released guidance in March that said virtual currencies, such as Bitcoin, should be treated as property, not currency, for tax purposes. On the state level, the New York State Department of Financial Services (NYDFS) released a proposal for what it called a “BitLicense,” which would be required if an entity stores, secures, maintains, receives or transmits virtual currency on behalf of consumers; performs retail conversion services with virtual currency; buys or sells it as a customer business; or controls, administers or issues virtual currency. The NYSSCPA’s Virtual Currency Task Force recently responded to the NYDFS proposal; see page 1 for details. —C.G.

Obamacare faces legal challenges

Despite having been official law for just over four years, the Affordable Care Act (ACA), known colloquially as Obamacare, faced several legal challenges in 2014. In the past 12 months alone, more than 90 more than 3 million people who have bought Obamacare policies are no longer entitled to the subsidies they are receiving, and could have even more dramatic ripple effects. —J.W.

Banks agree to pay record fines for part in mortgage crisis

In August, the Department of Justice reached a $16.65 billion settlement with Bank of America Corporation—the largest civil settlement with a single entity in American history—to resolve federal and state claims against the financial institution and its former and current subsidiaries. The agreement released the bank from numerous matters relat-

The settlement came in the wake of similar, but smaller, deals over precipice mortgage-related conduct with Citigroup Inc. for $7 billion and JPMorgan Chase & Co. for $13 billion. Shortly after, Goldman Sachs agreed to pay $3.15 billion in its own settlement. —J.W.

Credit Suisse ordered to pay $1.8 billion to U.S. DOJ

Years of investigation into Swiss banking giant Credit Suisse resulted in a win for the Department for Justice. In May, the bank pleaded guilty to charges that it knowingly provided tax shelters for U.S. citizens so that they could avoid having to pay the IRS.

With growing public interest in virtual currencies, such as Bitcoin, and an increasing number of entities agreeing to accept them, regulatory authorities spent much of the year trying to determine how the phenomenon fits into the larger financial framework.
BY DAVID A. SHUSTER, J.D., LL.M.  
(TAXATION)

ust like a midtown Manhattan city block, the New York State Department of Taxation and Finance’s (NYSDTF) position concerning the application of the state’s sales tax rules to scaffolding transactions appears to be continually under construction. On Oct. 23, the NYSDTF issued TSB-M 14(15)S, “Sales Tax Treatment of Certain Temporary Facilities Provided at Construction Sites,” to clarify its policy in this area. The TSB-M represents the third technical services bulletin that the department has issued within the last 27 months addressing the sales tax treatment of scaffolding.

To the extent the NYSDTF’s statements expressed in the TSB-M conflict with any prior statements, the new statements will be effective Jan. 1, 2015. Statements that the department issued prior to 2015 that conflict with the TSB-M will remain applicable to contracts entered into before 2015 for the duration of those contracts. Three statements in the TSB-M worth mentioning are discussed below.

Separately stated rental charges: capital improvement projects

In general, receipts from the installation of tangible personal property are subject to sales tax, as are receipts from maintaining, servicing or repairing real property. [N.Y. Tax Law Section 1105(c)(3)(v)]. But receipts from the installation of a capital improvement to real property are not subject to sales tax [N.Y. Tax Law Section 1105(c)(3)(ii)]. This exception extends to receipts from the installation of materials and the labor to provide a temporary facility, such as a sidewalk bridge or scaffolding at a construction site when such temporary facility is a necessary prerequisite to the construction of the capital improvement. [20 NYCRR (New York Codes, Rules and Regulations), Section 541.8(a); see TSB-A 12(18) S (Aug. 3, 2012); Matter of L & L Painting Co., Inc. (Tax App. Trib, June 2, 2011); see also TSB-A 13(11)S (April 11, 2013)].

The TSB-M provides that not only are the installation charges for scaffolding used in connection with capital improvements not subject to sales tax, but also that the periodic rental charges and the dismantling charges are not subject to sales tax as well, whether these charges are invoiced on a lump-sum or separately stated basis. As to separately stated periodic rental charges, this represents a departure from prior guidance [see TSB-A 13(11)S; TSB-A 12(18)S], but perhaps one that contractors and their customers will welcome.

Separately stated dismantling charges: taxable installation, maintenance, service and repair projects

When the scaffolding is provided in connection with a taxable installation, mainte-
Certified public accountants throughout New York state give generously of their free time to better their profession and to assist with community causes and projects in the public interest. The NYSSCPA recognizes these volunteer and professional commitments through an awards program designed to highlight outstanding service and to recognize professional development. The following awards are presented each year to qualified CPAs who are Society members:

Arthur J. Dixon Public Service Award
Recognizes CPAs who have demonstrated history of public service and volunteerism for a charitable, community or civic organization. This award celebrates the quality of, and dedication to, philanthropic service and the CPAs overall contribution to building and fostering community.

NYSSCPA Distinguished Service Award
Salutes CPA members who have distinguished themselves as Society leaders through model service within the NYSSCPA and the profession. The award celebrates those who have demonstrated outstanding dedication to and have made a remarkable impact upon the Society and the profession through endeavors such as inspirational service in leadership positions in the NYSSCPA, the development of future leaders of the Society and the profession, educational or publication efforts, public service and other activities.

Dr. Emanuel Saxe Outstanding CPA in Education Award
Pays tribute to the outstanding contribution by CPAs who have dedicated their life’s work to accounting education. These individuals have demonstrated a passion for and commitment to the profession by providing

See NYSSCPA Awards, on page 16

2015 NOMINATION FORM FOR NYSSCPA AWARDS

Please indicate the award you are nominating an individual for:

☐ Arthur J. Dixon Public Service Award
☐ NYSSCPA Distinguished Service Award
☐ Dr. Emanuel Saxe Outstanding CPA in Education Award
☐ Outstanding CPA in Government Award
☐ Outstanding CPA in Industry Award

PERSONAL

Candidate’s Name

Home Address

Home Telephone

Hometown/College Newspapers (Please list for publicity purposes in the event the nominee wins)

Society Member Since

Employment

Firm

Title

Address

Telephone Number of Years

Firm

Title

Address

Telephone Number of Years

EDUCATION

School Major, Degree, Year:

1

2

3

Community, Charitable and Government Activities
(To be answered if nomination is for Arthur J. Dixon Public Service Award)

1) Organization ____________________________
   Position ________________________________
   Describe Responsibilities ____________________________
   Number of Years ____________________________

   ☐ Elected ☐ Volunteered ☐ Appointed

2) Organization ____________________________
   Position ________________________________
   Describe Responsibilities ____________________________
   Number of Years ____________________________

   ☐ Elected ☐ Volunteered ☐ Appointed

3) Organization ____________________________
   Position ________________________________
   Describe Responsibilities ____________________________
   Number of Years ____________________________

   ☐ Elected ☐ Volunteered ☐ Appointed

Special Considerations
In 1,000 words or less, highlight the nominee’s qualifications and outstanding service and contributions to the profession. * (Attach separate sheet of paper.)

For the Arthur J. Dixon Public Service Award only, highlight the nominee’s contribution to the community.

NOMINATOR

Name

Address

Office Phone

Signature

CHAPTER ACTIVITIES

NYSSCPA Chapter

Committees

Offices

Other Contributions
the department’s prior statements is not entirely clear either. For contracts entered into after 2014, however, the department’s position is clear that such charges are subject to sales tax.

Regardless, because dismantling is not a taxable service, the charges for dismantling scaffolding, whether in connection with a capital improvement or not, should not be subject to sales tax, as long as the dismantling charges are reasonable in relation to the charges for the other services provided, the dismantling service may be purchased separately from the other services, and the dismantling charges are separately stated on invoices. In this author’s experience, however, a significant portion of the transactions that scaffolding contractors enter into is in connection with capital improvements, the dismantling charges for which, as mentioned, the NYSDTF agrees are not subject to sales tax.

Uncertainty will therefore arise in, perhaps, relatively few cases—those not involving capital improvements. Nevertheless, the department’s policy, to the extent that it would maintain that separately stated scaffolding dismantling charges are subject to sales tax, would appear to be indefensible as a matter of law. Indeed, the TSB-M does not extend to taxing the dismantling services provided by a company that is not furnishing the scaffolding materials also, as described in the 2012 guidance.

Contractor purchase of scaffolding materials

The TSB-M provides that a scaffolding contractor’s purchases—or rentals—of scaffolding materials are subject to sales tax. Citing the sale-for-resale exception set forth in the regulations, the department previously indicated, however, that scaffolding contractors could purchase their materials free of sales tax if the contractors’ rental charges to their customers in connection with capital improvements were stated separately from other charges, such as for installation or dismantling [see TSB-A 13(11)S (citing 20 NYCRR Section 541.9(b)(1)(ii))]. In abandoning the sale-for-resale exception, the department has now reverted to relying on the temporary facilities regulation [20 NYCRR Section 541.8(b)], which provides that these purchases are indeed taxable [see TSB-M-14(15)S, example 1].

In conclusion, the NYSDTF’s policy is not necessarily the law, only the department’s interpretation of it and, thus, an indication of what one might expect on an audit.

David A. Shuster, J.D., LL.M. (Taxation), is a Tax Principal at Grassi & Co.

This story originally appeared in the NYSSCPA’s Tax Stringer.

NYSSCPA Awards

Continued from page 15

an educational foundation for future generations of CPAs. This award acknowledges excellence in teaching and a contribution to and promotion of the accounting profession.

Outstanding CPA in Government Award

Applauds outstanding service by CPAs who have dedicated their professional careers to government assignments. As public servants, these CPAs have distinguished themselves by their exemplary contribution to the increased effectiveness of their government organization or agency, as well as by creating value, leading by example, championing new solutions, inspiring others and promoting the CPA as the premier professional designation in government.

Outstanding CPA in Industry Award

Commends outstanding service and professional development in industry. This award recognizes industry CPAs who have made significant contributions to their business or industry by creating value, leading by example, championing new solutions, inspiring others and promoting the CPA as the benchmark of professional designations in industry.

Nominations

The form on page 15 can be used to nominate a CPA Society member for any of the above awards. Please indicate on the form the award you are nominating an individual for. A separate sheet should be attached to adequately highlight the qualifications and contributions of the nominee, particularly as they pertain to the award. Individuals cannot nominate themselves.

Nomination forms can also be found on the Society’s website at www.nysscpa.org. All completed nomination packages should be postmarked or delivered to the NYSSCPA, 14 Wall Street, New York, N.Y. 10005, Attn: Nereida Gomez, by Jan. 30, 2015. For the Arthur J. Dixon Public Service Award only, highlight the nominee’s contribution to the community.

Award winners will be announced at the Society’s Annual Election Meeting and Dinner in May 2015. The committee will notify the award winners and their nominators so they can make arrangements to be present at the dinner.

Questions?

Please contact Nereida Gomez at 212-719-8358, 800-697-7272, or ngomez@nysscpa.org.

NYSDF

Continued from page 14

the department’s prior statements is not entirely clear either. For contracts entered into after 2014, however, the department’s position is clear that such charges are subject to sales tax.

Regardless, because dismantling is not a taxable service, the charges for dismantling scaffolding, whether in connection with a capital improvement or not, should not be subject to sales tax, as long as the dismantling charges are reasonable in relation to the charges for the other services provided, the dismantling service may be purchased separately from the other services, and the dismantling charges are separately stated on invoices. In this author’s experience, however, a significant portion of the transactions that scaffolding contractors enter into is in connection with capital improvements, the dismantling charges for which, as mentioned, the NYSDTF agrees are not subject to sales tax.

Uncertainty will therefore arise in, perhaps, relatively few cases—those not involving capital improvements. Nevertheless, the department’s policy, to the extent that it would maintain that separately stated scaffolding dismantling charges are subject to sales tax, would appear to be indefensible as a matter of law. Indeed, the TSB-M does not explain or offer any analysis as to why the dismantling charge is subject to sales tax. Most likely, then, the department’s policy concerning the taxability of the dismantling services that the single scaffolding contractor
CHAPTER NEWS

In meetings with lawmakers, Buffalo boosts Society’s agenda

BY THOMAS BURNS
Buffalo Chapter President

Our chapter held its 61st Annual Tax Institute on Nov. 6–7 at the Millennium Hotel. This year’s topics included federal and New York state tax updates, New York state incentives, estate planning, sales tax, healthcare and the employer’s responsibility, international compliance, worker classification, the final tangible property regulations, choice of entity and mergers and acquisitions. The program was sponsored by the University at Buffalo (SUNY) School of Management, the Erie Institute of Law and the Buffalo Chapter Tax Committee, led by Phil Gallison.

Our Nonprofit Committee, led by Sarah Hopkins, held another informative session on Nov. 5. Laura A. Sprague, New York state assistant attorney general, offered updates on the New York Nonprofit Revitalization Act of 2013, while Jerry Mazurkiewicz led an expert panel discussion. Session attendees also learned more about charitySTRONG, a New York not-for-profit corporation that assists nonprofits in improving board leadership, governance and oversight.

In October, we held a Legislative Breakfast with Assemblyman Robin Schimminger, chairman of the Committee on Economic Development, Job Creation, Commerce and Industry. As a follow-up, Robert Busweiler, the NYSSCPA’s public affairs manager, arranged a meeting on Nov. 20 with myself, NYSSCPA President-elect Joseph M. Falbo Jr., Assemblyman Ray Walter and State Senator Timothy Kennedy to discuss the Society and its legislative agenda. These face-to-face meetings are helpful in establishing a relationship with our state legislators, so that when an issue arises that we oppose or support, they are more likely to meet with us to discuss our position.

Our chapter will hold its Managing Partner/ Town Hall meeting at the Buffalo Club on Jan. 22. Managing partners will have an opportunity to meet with NYSSCPA President Scott M. Adair, Falbo and Lisa Axtia, director of member relations at the Society, to ask questions and hear firsthand what the NYSSCPA is doing to promote our members and the profession.

I thank everyone involved in organizing these events. I know how challenging it can be to find the time to secure a venue, seek out speakers and sponsors, promote the events and register attendees.

I encourage you to contact me with any suggestions, or for more on how you can join one of our committees or help out at an event.

For Manhattan/Bronx, a time to give thanks and give back

BY IRALMA POZO
Man/Bx Chapter President

The holiday season is a great reminder that all of us have so much to be thankful for, and one of the things I’m most thankful for is this profession. Becoming a CPA has exposed me to so many wonderful opportunities, people and companies. It has taught me how to get to the bottom line—and to the top of my game. Most importantly, being a CPA has provided me with endless opportunities to give back to colleagues, clients, aspiring CPAs, members of the community and others.

Being a member of the NYSSCPA has been the foundation of my career. I’m honored to be the Manhattan/Bronx Chapter president, and I look forward to working with my chapter board to serve you. Likewise, I hope you’re taking advantage of all the opportunities that membership can provide. If you want to get more involved in the chapter, please don’t hesitate to contact me at the email address below or any of our board members.

On Oct. 18, our chapter participated in New York Cares Day, a day of service organized by the nonprofit New York Cares. Eight volunteers helped to beautify PS 306 K – Ethan Allen in Brooklyn, sorting through and organizing storage closets in the school’s basement. On Oct. 20, 25 chapter members participated in our annual golf outing held at the Pelham Bay Golf Course in the Bronx. Net proceeds from the golf outing will benefit the Ted Wilson Scholarship Fund, which honors our late board member and friend Theodore A. Wilson.

On Nov. 17, 64 chapter members participated in our Annual Town Hall/Ethics CPE event. Society President Scott M. Adair and Legal Counsel Brad Pyha kept the audience engaged with discussions about ethical rules and dilemmas and current developments in this area.

I hope to see many of you and your nonmember colleagues at one of our upcoming events, including our Blueprint on Creative Retirement Planning Solutions on Dec. 9 at Morgan Stanley. Call (800) 537-3635 or contact Shan Hicks at shan.hicks@shanpcpa.com for further information.

As always, please check our web page regularly for updates, as well as our Facebook page, https://www.facebook.com/ManhattanBronxChapter. Select “Events” to see upcoming activities. Please also save the date for the following events:

• Dec. 9—A Blueprint on Creative Retirement Planning Solutions, Morgan Stanley, One New York Plaza

With former Mets star as speaker, Mid Hudson event hits one out of the park

BY DAVID PURCELL
Mid Hudson Chapter President

We started off the month of October with a CPE session. Our chapter hosted an A&A event on Oct. 23, in which approximately 50 members received accounting and auditing updates from Renee Rampulla. Renee is a very knowledgeable speaker when it comes to A&A and always gets compliments from our members. I would like to thank Michelle O’Reilly, my fellow chapter board member, for organizing the event. Job well done!

On Oct. 29, we held our annual Bankers, Attorneys & CPAs networking event, our chapter’s largest social event of the year, drawing more than 200 attendees. Our guest speaker of the evening was Ron Darling, former major league pitcher who now works as a color commentator on Mets telecasts. Ron was kind enough to sign autographs during the evening and let us ask him questions about his insights on baseball.

I would like to thank the sponsors and guests who attended. I would also like to personally thank those involved with the event: Rebecca Hashbrouck, Maria Petrollese, Tom Kennedy, Terry Ann Wheeler, Judith Papo, Rick DuVall, Tom DiGiovanni, Wayne Day, and Jennifer Capicchioni. Thank you all for the time you spent planning this event and making it a success.

Again, please visit our chapter page on the NYSSCPA website for our upcoming events.
CHAPTER EVENTS AND CPE

MANHATTAN/BRONX

A Blueprint on Creative Retirement Planning Solutions
When: Dec. 9, 6–8 p.m. (check-in 5:30 p.m.)
Where: Morgan Stanley, One New York Plaza
Cost: $25 members, $35 nonmembers
CPE: 2 (specialized knowledge)
Course Code: 29155509
Contact: Shan Hicks at shan.hicks@shancpa.com
Register online or Call: (800) 537-3635

Understanding the Nonprofit Revitalization Act
When: Dec. 8, 9 a.m. (check-in 8:15 a.m.)
Where: Central Lounge, 20-30 Steinway Street, Astoria
Cost: $25 members, $35 nonmembers
CPE: 2 (specialized knowledge)
Course Code: 29555506
Contact: Shan Hicks at shan.hicks@shancpa.com
Register online or Call: (800) 537-3635

Generation A–Z — What You Should Know About Social Security
When: Jan. 22, 6–8 p.m. (check-in 5:30 p.m.)
Where: AE Learning Center, 14 Wall St., 19th Floor, Classroom A
Cost: $25 members, $35 nonmembers
CPE: 2 (specialized knowledge)
Course Code: 29555507
Contact: Shan Hicks at shan.hicks@shancpa.com
Register online or Call: (800) 537-3635

NASSAU

Nassau Chapter CPA Ethics Update
When: Jan. 14, 5:30 p.m. dinner, 6:45–8:45 p.m. ethics
Where: Chateau Briand, 440 Old Country Road, Carle Place
Cost: $50 members, $80 nonmembers
CPE: 2 (general ethics)
Course Code: 42055525 (ethics only); 42055529 (ethics and dinner)
Register online or Call: (800) 537-3635

Nassau Chapter All-Day Estate and Personal Financial Planning Conference
When: Jan. 17, 9 a.m.–5:15 p.m. (check-in 8 p.m.)
Where: Long Island Marriott, 101 James Doolittle Blvd, Brightwaters
Cost: $25 members, $250 nonmembers
CPE: 8 (taxation)
Course Code: 28600426
Register online or Call: (800) 537-3635

NORTHEAST

Northeast Chapter Annual Tax Conference
When: Dec. 14, 8:30 a.m.–4:30 p.m.
Where: Capital One Bank, Executive Dining Room, Hauppauge
Cost: $150 members, $250 nonmembers
CPE: 8 (taxation)
Course Code: 28600852
Register online or Call: (800) 537-3635

What the Practitioner Should Know About Informal and Formal Estate Accountings
When: Dec. 16, 8:30 a.m.–11 a.m.
Where: Capital One Bank, Executive Dining Room, 275 Broad Hollow Road, Melville
Cost: Free
CPE: 2 (specialized knowledge)
Course Code: 29085511
Contact: Seymour Goldberg at info.goldbergira@gmail.com

SUFFOLK

Suffolk Chapter Annual Taxation Conference
When: Dec. 13, 8:30 a.m.–4:30 p.m. (check-in 8 a.m.)
Where: Islandia Marriott, 3635 Express Drive North, Hauppauge
Cost: $150 members, $250 nonmembers
CPE: 8 (taxation)
Course Code: 28600852
Register online or Call: (800) 537-3635

Annual GAAP Update
When: Dec. 17, 10–4:45 a.m.
Where: Empire National Bank, 1717 Veterans Hwy., Suite 8
CPE: 2 (accounting)
Course Code: 29085517
Cost: Free
Register online or Call: (800) 537-3635

Return to Network in the Tropics (a.k.a. Haiti)
When: Jan. 15, 6–8:30 p.m.
Where: Albrecht, Viggiano, Zureck & Company, 25 Suffolk Court, Hauppauge
Course Code: 45055505
Cost: $25 per person
Contact: Susan Berger at sberger@shancpa.com

Queens/Brooklyn

Queens/Brooklyn Chapter Holiday Party
When: Dec. 10, 6:30–9:30 p.m.
Where: Central Lounge, 20-30 Steinway Street, Astoria
Cost: $25 members, $35 nonmembers
Course Code: 45160503
Register online or Call: (800) 537-3635

ROCHESTER

Understanding the Nonprofit Revitalization Act
When: Dec. 8, 9 a.m. (check-in 8:15 a.m.)
Where: St. John Fisher College, Haffey Hall, Wilson Formal Lounge
Cost: $15 per person/$50 group rate (4–6 participants)
Course Code: 45050505
Contact: Donna Leczy at dleczy@shancpa.com

Saratoga Chapter CPA Ethics Update
When: Jan. 15, 6–8:30 p.m.
Where: Empire National Bank, 1717 Veterans Hwy., Suite 8
CPE: 2 (specialized knowledge)
Course Code: 29085519
Cost: Free
Register online or Call: (800) 537-3635

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NYSSCPA LOGO

By representing more than 29,000 members, the NYSSCPA acts as the unified voice for CPAs throughout New York State. While we are often able to use our strength in numbers to take action, political advocacy sometimes requires a more grassroots approach. This is why the NYSSCPA is inviting its members to become a part of its Key Contact Program. Much in the same way networking is vital to professional advancement, developing a strong political network of connections is important to any government advocacy program.

To Become a Key Contact:
Click on the Government Affairs tab on the NYSSCPA website and then click on the “Get Involved” link

Or type the web address directly into your internet browser:
ynsscpa.org/page/key-contact

Members can also call:
212-719-8385
Northeast blazes path for the next generation of CPAs

BY JENNIFER PICKETT
Northeast Chapter Treasurer and Student Night Committee Chair

On Oct. 23, the Northeast Chapter hosted its annual Student Night at the Century House in Latham. The event is designed to attract students to the accounting profession by giving them the opportunity to hear the experiences of a variety of professionals in the field. Many students have no idea how interesting accounting can be or how many different directions an accounting career can go.

We began the evening with a panel of five speakers who discussed their careers and answered questions from the audience. First up was Jeremy Noble, CFO of the law firm Tully Rinckey PLLC. Jeremy discussed the type of work he does in the private sector and encouraged attendees to follow their dreams. Next, Adil Siddique, an audit associate at KPMG, spoke about the excitement of working for a large firm and the range of opportunities that are available. Lisa Smith, a partner at BST Financial and Management Consultants and the Northeast Chapter president, greeted the students and spoke about her path from KPMG to General Electric.

One reason attendance may have been high is that we recognized several members of our chapter for their great work. This included our NextGen committee, which is currently renovating a house for Flower City Habitat for Humanity, a nonprofit devoted to building affordable housing for families in need. I can’t wait to see the results of their efforts.

This was our first time having students to the accounting profession. We created these mixed groups of students and CPAs to maximize networking opportunities and the students’ exposure to different types of careers in accounting.

This year, 58 students from eight area schools attended Student Night, along with 51 accounting professionals and educators. Although we had a few graduate students, the majority of student attendees were freshmen or sophomores who were taking beginner accounting courses. The response from the students has been overwhelmingly positive and many were grateful for the opportunity to learn more about the accounting profession.

My company, LSC&Z, L.L.P., graciously permitted me to chair the Student Night Committee and moderate the event. Other committee members include Don F. Arnold, Union Graduate College; Bill Corbett, Capital Region Sponsor-a-Scholar; Kim Crabbe, Skidmore College; John DeJoy; Union Graduate College; Ronald L. Guzior, SaxBST; Barry Hughes and Catherine M. Katagiri, the College of St. Rose; Eric Lewis, Siena College; Michelle R. Mosher, University at Albany; Gerald Silverstein, the Sage Colleges; and Lisa Smith and Robert Soules, Union College.

One reason attendance may have been high is that we recognized several members of our chapter for their great work. This included our NextGen committee, which is currently renovating a house for Flower City Habitat for Humanity, a nonprofit devoted to building affordable housing for families in need. I can’t wait to see the results of their efforts.

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We couldn’t have arranged this wonderful program without our sponsors: Capital Region Sponsor-a-Scholar, Inc.; KPMG, LLP; LSC&Z, LLP; Marvin & Company, P.C.; Siena College; Skidmore College; T.M. Byxbe Company, CPAs, NYPCC; Teal Becker & Chiaramonte, CPAs, PC; The Bonadio Group; The College of St. Rose; The Sage Colleges; the University at Albany; SaxBST; UHY, LLP; Union College; Union Graduate College; and Wojeski & Co. CPAs, PC. Thank you again for your generous support!

Please note the dates of these upcoming events:

- Dec. 16—NextGen’s Toys For Tots Social, Recovery Sports Grill, 98 Wolf Rd., Colonie
- Jan. 15—CPA-Banker Cocktail Reception and Town Hall Meeting, the Desmond Hotel & Conference Center in Albany
- May 11—Golf Outs, the Edison Club in Rexford

For more information about sponsoring or participating in next year’s Student Night or any of our other events, please contact me at the email address below.

jjp@lcszcpa.com

Queens/Brooklyn Chapter extends season’s greetings with dinner

BY ROSSLYN KHUNOVICH
Queens/Brooklyn Chapter Treasurer

Season's greetings from the Queens/Brooklyn Chapter! Just to recap, so far this year, we have held a number of successful CPE sessions. Most recently we held a Tax Conference on Oct. 29 at the New York State Department of Finance in Brooklyn, and an Ethics Conference on Nov. 6 at Long Island University. We have also been fortunate to be able to organize several free networking events, which brought together students and professionals from the boroughs we serve.

Our next event is a networking holiday dinner party to be held at Central Lounge in Astoria, Queens on Dec. 10. We invite accountants and attorneys to join us for the opportunity to mix and mingle with other professionals. The cost for the holiday dinner party is $25 for members and $35 for nonmembers. Please look for the flyer and communications from the NYSSCPA with information to register. Space is limited, so we encourage professionals who are interested to R.S.V.P. early.

We would like to extend a special thank you to Investors Bank for continuing to sponsor our events and most recently our Tax Conference. Please contact me at the email address below if you are interested in being a sponsor.

rosslyn@gmail.com

Rochester’s annual ethics meeting sees boost in attendance

BY ANTOINETTE SPINA
Rochester Chapter President

I hope you got to attend our annual clambake/ethics meeting on Oct. 8 at Monroe Country Club; it had nearly double the attendance of last year. Members enjoyed themselves so much that even when I left at 9:30 p.m., there were still a number of people having coffee or a drink and talking animatedly with each other.

One reason attendance may have been high is that we recognized several members of our chapter for their great work. This included our NextGen committee, which is currently renovating a house for Flower City Habitat for Humanity, a nonprofit devoted to building affordable housing for families in need. I can’t wait to see the results of their efforts.

This was our first time having Brad Pryba, the NYSSCPA’s legal counsel, lead an ethics course. His presentation was informative and entertaining, which is tough to do with that topic. I know I’ll be back next year if we have him as speaker again!

We held our 47th Annual Rochester Tax Institute on Nov. 21 with our friends at the Monroe County Bar Association. Committee chair Anthony Sandoz and his team worked hard on this year’s program. Several of our members—Mark Blood, David Veniskey, Roger Upton, John Heveron and Jennifer Schillaci—were presenters. We also hosted Robert D. Plattner, Esq., the deputy commissioner of the Office of Tax Policy Analysis for the New York State Department of Finance and Revenue.

Though the year is almost over, we still have much planned. On Dec. 8, Stephanie Annunziata and her team have scheduled the two-hour session “Understanding the Nonprofit Revitalization Act” at St John Fisher College. They’ll have the very knowledgeable Joseph G. Casino, Esq., from Harter Secrest & Emery LLP presenting. I am sure it will be a very informative session. Happy Holidays!

tpolina@baileycarrcpa.com
Rockland reflects on a year filled with successes

BY MICHAEL MILISITS
Rockland Chapter President

With tax season around the corner, I and the board of the Rockland Chapter wanted to take this opportunity to thank everyone who has attended our seminars and networking events over the past year. We greatly appreciate your support and are proud to offer seminars with a diverse range of subject matter. We got very positive reviews for all of our seminars and plan to offer the same level of quality education next year. I also wanted to offer my sincerest thanks to all of our presenters and sponsors from the past year. We would not have been able to do a fraction of what we did without your help and support.

I also wanted to single out and give a very special thank you to the Rockland Chapter’s NextGen Committee and St. Thomas Aquinas College in Sparkill. St. Thomas Aquinas generously allowed our chapter’s NextGen group to take part in two presentations for accounting students. The first was an accounting forum that provided the students with some insight into the various accounting fields and what they can expect as entry-level staff. The second was a presentation in which the NextGen group conducted a mock interview with an accounting student in front of the class, critiqued it, and offered insights as to how best to handle the interview process.

The Rockland Chapter has one final seminar planned—our eight-CPE Annual All-Day Tax Update on Dec. 4. We have some great presenters lined up to discuss federal, New York, New Jersey and Connecticut tax updates. Please join us; it’s the perfect way to get ready for the upcoming busy season. This year, we will be holding the seminar at Casa Mia Manor House in Blauvelt. Registration is now open—if you have not received registration forms in the mail or by email yet, you can register online at www.nysscpa.org or call (800) 537-3635.

Anyone who is not currently getting our chapter e-mails or the Society’s e-mails, please send me your contact information at the address below; I will make sure you are added to our distribution list and never miss an e-mail about upcoming events again.

Happy holidays and best of wishes from the Rockland Chapter.

mcm@thehuntergroup.com

World of Accounting event makes world of difference with students

BY FRANK J. DECANDIDO
Staten Island Chapter Member

On Oct. 17, the Staten Island Chapter, in partnership with the College of Staten Island (CSI), sponsored the fifth annual World of Accounting event at CSI’s Performing Arts Center.

The day’s events began with a light breakfast and an informational session detailing the curriculum for accounting majors. They continued with presentations from representatives from the Federal Bureau of Investigation (FBI) and the Drug Enforcement Administration (DEA), a brief exploration of career options led by NYSSCPA members practicing in public and corporate accounting functions, and a presentation on the Society’s Career Opportunity in the Accounting Profession (COAP) program, before culminating in a question and answer session and giveaways.

Several Staten Island Chapter members spoke at the event, including Cynthia Scarinci, Dennis Annarumma, the chapter’s past president, Ray Zollo, board members Charles Weintraub and Sharon Sica-Costanzo and members of our current executive committee: chapter President Sophia Faraj, Vice President Patrick Monachino, Secretary Doreen Inserra and President-elect Tiffany Montaruli.

Scarinci, in addition to being a chapter member, is a professor of accounting at CSI. She provided students with an overview of the requirements for becoming a CPA in New York, while Montaruli and Zollo led a presentation about the Staten Island COAP program, which took place in July at St. John’s University. Two COAP alumni, Nick Ingrassia from Monsignor Farrell High School and Clouse Lee from Staten Island Tech, participated in the discussion, describing their experiences in the program and sharing pictures.

Jim Arroyo from the DEA and Ryan Fregans from the FBI gave presentations regarding career opportunities and employment requirements at their respective agencies.

Each year, more and more schools participate in the World of Accounting event. This year, approximately 260 students and faculty attended, representing the following high schools: Our Lady Star of the Sea, Port Richmond, St. Joseph by-the-Sea, Moore Catholic, Staten Island Tech, New Dorp, Tottenville, Susan E. Wagner, Notre Dame Academy, St. John Villa Academy, St. Peter’s, and Monsignor Farrell. Student attendees and faculty expressed their appreciation to the chapter for organizing this event.

The success of this event is due to the dedication of World of Accounting Committee members, which includes Scarinci, Annarumma, Rosemarie Giovannazzo-Barnickel, as well as myself; the insights provided by chapter members who shared their career experiences and board members Anthony Tanzi and Mark Weg, who assisted with numerous activities on the day.

fjdcpa@si.rr.com

World of Accounting coordinator Cynthia Scarinci (at left) and Staten Island Chapter Vice President Patrick Monachino (at right) with students from Our Lady Star of the Sea.
Chapter News

Southern Tier offers networking advice to young professionals

BY TERA A. STANTON
Southern Tier NextGen Committee Cochair

On Sept. 24, the Southern Tier Chapter’s NextGen Committee hosted a luncheon that included young lawyers and other young professionals from the area as guests. Held at the Binghamton Club, the event, “Quit Prospecting and Get Referred,” proved to be a beneficial one for all attendees.

David Makar, the president, owner and lead consultant at the Referral Institute Central New York, led an interactive presentation on the four massive networking mistakes business professionals make that sabotage their success and how to avoid them. His simple tips and suggestions will be put to good use to further business opportunities and career growth.

For more on the Southern Tier NextGen Committee, please email me at the address below.

tsanton@davidsonfox.com

Westchester debuts new and improved recruitment night

BY WILLIAM H. ZEBORIS
Westchester Chapter President

On Oct. 27, the Westchester Chapter hosted its Eighth Annual Recruitment Night at the Crowne Plaza Hotel in White Plains. Seventy-five students and recent graduates from 13 universities worked the room, talking with firm representatives from local accounting firms, members of the Westchester Chapter’s NextGen Committee and Women’s Initiative, the New York State Department of Taxation and Finance, Wiley CPA Review and Concorde Staffing.

Through the efforts of Matthew Katz and Omar Brown, who worked the NextGen table (with an assist from Alex Metz, the NYSSCPA’s manager of membership, recruitment and retention), a total of 30 new members joined the Society that evening.

Gwendolyn Horn represented her Women’s Initiative by talking to our female attendees and sponsors about the benefits and challenges women face in public accounting.

As a new feature introduced this year, students had a chance to participate in a mock interview. For many of them it was their first experience sitting across the table from a prospective employer. All told, 19 students took advantage of this opportunity.

A very special thanks to our event coordinators, Heather Oboda and Michele Lazzara, for making this event one of the Westchester Chapter’s crown jewels.

Universities Represented at the Event
Baruch College
College of Westchester
Fairfield University
Fairleigh Dickinson University
Fordham University
Iona College
Keller Graduate School
Lehman College
Mercy College
Monroe College
 Pace University
Westchester Community College
Western Connecticut State University

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On the first of each month, top CPAs, attorneys and other professionals write about the latest and most important tax developments for the members of the NYSSCPA in The Tax Stringer, the NYSSCPA’s electronic tax newsletter. From the tax implications of the ACA, to the recent controversy over the MCTMT, to special New York rules for flow-through entities, The Tax Stringer covers it all.

To sign up for this free members-only publication, go to highroadsolution.com/nysscpa_preference_center/EmailSearch.aspx

Then type in your email. You will see a list of NYSSCPA publications. Just check The Tax Stringer—and any other NYSSCPA publications you’d like to receive—and The Tax Stringer will arrive in your inbox starting with the next issue.
What were the biggest developments for the profession in 2014?

The two issues that immediately come to mind are IRS-related. The first is the latest development in the service's efforts to increase tax preparer oversight. [Ed Note: In October, a federal court dismissed a lawsuit that the AICPA had filed challenging the IRS's Annual Filing Season Program (AFSP). Promoted as a voluntary initiative, the AFSP allows uncredentialed preparers to represent clients before the IRS and obtain a certificate from the service, provided that they register with the government, take 18 hours of continuing professional education and take a competency test.] I think the AFSP is a complete disappointment. You won't catch the guys impinging on the public — that's the point of the program — if it's really voluntary. But that stems from the failure of Congress to change the law to allow the IRS to cover and supervise tax return preparation.

The second relates to the IRS's being underfunded. Congress has slashed the IRS's budgets to the point where the service isn’t able to perform its duties like it used to. Amended return filings are taking more than a year now — that standard 45-day notice from the IRS has become infamous among preparers. And lately, the IRS has been much quicker to issue a Notice of Deficiency and require us to appeal through U.S. Tax Court. It's a big issue, one that makes it difficult to get anything done, and it's only going to get worse: The IRS commissioner himself [John A. Koskinen] said that the 2015 tax filing season will be “miserable,” with even more delays. When you’ve got the commissioner of the IRS coming out and saying that, we have a serious problem facing our system that needs immediate redress.

From my perspective, the main issue affecting the profession this year has been dealing with the IRS. In the past, as professionals, we were able to call a dedicated phone line and talk to specialists who could speak our language and help resolve problems. Within the last year or so, things have basically fallen apart over there. Now we get messages saying there’s a 30- to 60-minute wait, which makes no sense. The IRS says it treats taxpayers like customers, but that would mean it has to approach this situation as if it were a business, which it absolutely is not doing.

This wouldn’t be as much of a problem if we had avenues for directly interacting with the IRS electronically, whether by email or some other system, but we do not. Amended returns have to be filed through the mail. Why? I’m not an IT professional, but I have to believe it’s far from impossible to do so electronically. The national taxpayer advocate and TIGTA [the Treasury Inspector General for Tax Administration] have both pointed out this year that the IRS has fallen down on its technical capabilities; I’m inclined to agree.

For me, it’s not one particular development but a combination of things that all have to do with the efforts of the new Private Company Council (PCC) to simplify reporting for private businesses. This includes new guidance for accounting for goodwill and new guidance for variable interest entities, among other things. The continuing involvement of the PCC is significant because, for years, no matter what size a business was, whether public or private, they were all on the same GAAP (generally accepted accounting principles) reporting standards. That wasn’t necessarily fair to smaller private entities, which represent a lot of the businesses I work with. The PCC simplified what management has to know when signing off on, say, a management representation letter, and it probably makes things more cost-effective for entities, as well. While I wouldn’t yet say that it’s affected how I work, down the road, it will no doubt make things a lot easier.
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For AICPA-developed courses, the following pricing schedule applies.

<table>
<thead>
<tr>
<th>Course Type</th>
<th>Fee</th>
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<tbody>
<tr>
<td>8-hour course</td>
<td>$269</td>
</tr>
<tr>
<td>16-hour course</td>
<td>$429</td>
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BUFFALO

TAXATION
01/14
FAE’s Individual Taxation: Review and Update for Experienced Practitioners
Refers to an up-to-date review of federal and state tax legislation, new tax strategies, e-filing, and other key developments in tax return preparation for individuals.
T/8 21637581
Buffalo/ Niagara Marriott
Foundation for Accounting Education
$355/$480

01/20
Frank C. Powers Community Taxation Practice: The World of Financial Instruments and Mergers of Equals
Get an overview on the ins and outs of buyouts and retirement options, as well as important formulas to be utilized when calculating figures for these structures.
SK/2 34534517
FAE Learning Center
Foundation for Accounting Education
$55/$75

01/27
Tutorial: The Role of Financial Instruments in Succession Planning
This workshop will cover some alternative financing options in the areas of early retirement and succession planning.
SK/2 34534517
FAE Learning Center
Foundation for Accounting Education
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01/28
C Corporations Taxation Conference
T/8 25615511
FAE Learning Center
Foundation for Accounting Education
$385/$510

01/29
International Taxation Conference
T/8 25610511
CIA Executive Conference Center
Foundation for Accounting Education
$385/$510

01/30
FAE’s 2015 Individual Tax Return Preparation Boot Camp
This course guides practitioners through the changes to all the major tax forms, the impact of new tax legislation, and other key issues.
T/8 21637511
FAE Learning Center
Foundation for Accounting Education
$299/$424

MANHATTAN/BRONX

ACCOUNTING
01/15
37th Annual Nonprofit Conference
AC/2, AU/2, SK/3, 25550511
New York Marriott Marquis at Times Square
Foundation for Accounting Education
$385/$510

01/27
FAE’s Accounting and Auditing Boot Camp
This session focuses on the latest in agreement of goodwill and identifiable intangibles, comprehensive income, and more issues that are impacting your work.
AC/4, AU/4 21111514
FAE Learning Center
Foundation for Accounting Education
$299/$424

AUDITING
01/12
Audits at the Crossroad: A Symposium on Evolving Standards and Practices
Speakers from the PCAOB, FASB, and PCAOB discuss current issues and proposals.
AU/3 27550511
FAE Learning Center
Foundation for Accounting Education
$500/$550

01/15
37th Annual Nonprofit Conference
See course listing under Accounting.
01/27
FAE’s Accounting and Auditing Boot Camp
See course listing under Accounting.

SPECIALIZED KNOWLEDGE
01/15
37th Annual Nonprofit Conference
See course listing under Accounting.

01/16
Workshop: Partnership Agreements, Practice Continuation Agreements, and Contract Issues (Part of Succession Planning Series)
Learn more about the opportunities available through succession planning and the importance of strong partnership agreements.
SK/2 34534512
FAE Learning Center
Foundation for Accounting Education
$55/$75

01/16
M&A Deal Structuring, Practice Valuations, and Due Diligence (Part of Succession Planning Series)
Gain a solid understanding of the key components in M&A deal structuring.
SK/2 34534516
FAE Learning Center
Foundation for Accounting Education
$55/$75

01/22
Workshop: Buyouts and Retirement Structures (Part of Succession Planning Series)
Get an overview on the ins and outs of buyouts and retirement options, as well as important formulas to be utilized when calculating figures for these structures.
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01/22
Creative Financing Options for Retirement and Succession Planning (Part of Succession Planning Series)
This session will cover some alternative financing options in the areas of early retirement and succession planning.
SK/2 34535512
FAE Learning Center
Foundation for Accounting Education
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01/27
Mergers of Equals: Concept of and Challenges in the M&A ofEquals (Part of Succession Planning Series)
This session will address some of the most difficult aspects in completing mergers of equals and the tips you need to make it work for your firm.
SK/2 34535511
FAE Learning Center
Foundation for Accounting Education
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01/27
Your Business, Your Family, Your Legacy (Part of Succession Planning Series)
Learn how to maximize the return on your hard-earned investments and lifetime of work through succession planning, and how to make your retirement work meaningful.
SK/2 34535513
FAE Learning Center
Foundation for Accounting Education
$55/$75

NASSAU

ETHICS
01/14
CPA Ethics Update: General Ethics
This two-day course focuses on auditing the new AICPA revised Code of Professional Conduct, recent revisions to the Code, and a discussion of proposed changes to Section 25.10 of the Rules of the Board of Regents.
E/2 42032315
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$101/$20

Location: New York state calendar-year continuing professional education requirements.

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LOCATION

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Developer
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NORTHEAST

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T/8 21637541
Albany Marriott
Foundation for Accounting Education
$299/$424

ROCHESTER

ACCOUNTING
01/08
37th Annual Nonprofit Conference
AC/2, AU/3, SK/3
25550511
RIT Inn & Conference Center
Foundation for Accounting Education
$355/$480

AUDITING

01/21
37th Annual Nonprofit Conference
See course listing under Accounting.

SPECIALIZED KNOWLEDGE

01/21
37th Annual Nonprofit Conference
See course listing under Accounting.

TAXATION
01/21
FAE’s Individual Taxation: Review and Update for Experienced Practitioners
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T/8 21637571
Holiday Inn Rochester Airport
Foundation for Accounting Education
$299/$424

SUFFOLK

TAXATION
01/12
FAE’s Individual Taxation: Review and Update for Experienced Practitioners
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T/8 21637521
Melville Marriott Long Island
Foundation for Accounting Education
$299/$424

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TAXATION
01/07
Taxation of Financial Instruments and Transactions Conference
T/8 25623511
New York City Bar Association
Foundation for Accounting Education
$385/$510

01/21
Tri-State Taxation Conference
T/8 25961511
FAE Learning Center
Foundation for Accounting Education
$335/$460

01/23
FAE’s Individual Taxation: Review and Update for Experienced Practitioners
Refers to an up-to-date review of federal and state tax legislation, new tax strategies, e-filing, and other key developments in tax return preparation for individuals.
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Albany Marriott
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For details, refer to the registration information on www.nysscpa.org.
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AUDITING

01/12  Audits at the Crossroad: A Symposium on Evolving Standards and Practices (WEBCAST)

01/15  37th Annual Nonprofit Conference (NYC WEBCAST)

01/27  Renee Rampulla’s Busy Season Accounting Boot Camp (WEBCAST)

SPECIALIZED KNOWLEDGE

01/15  37th Annual Nonprofit Conference (NYC WEBCAST)

01/16  Workshop: Partnership Agreements, Practice Continuation Agreements, and Contract Issues (Part of Succession Planning Series) (WEBCAST)

01/02  Workshop: Buyouts and Retirement Structures (Part of Succession Planning Series) (WEBCAST)

01/27  Mergers of Equals: Concept of and Challenges in the M&A of Equals (Part of Succession Planning Series) (WEBCAST)

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<td>The Best S Corporation, Limited Liability, and Partnership Update Course</td>
<td>December 15</td>
<td>8</td>
</tr>
<tr>
<td>Group Audits: Clarifying the Complexities</td>
<td>December 15</td>
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<tr>
<td>Hot IRS Examination Topics</td>
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<td>Financial Forecasting and Decision Making</td>
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