State approves NYSSCPA as quality review sponsoring org.

By AMI OLSON
Trusted Professional Staff

The New York State Education Department’s Quality Review Oversight Committee on Feb. 8 formally approved the NYSSCPA as a sponsoring organization that may administer and oversee mandatory quality reviews in New York state.

For a number of years, the NYSSCPA has administered the AICPA’s peer review program in New York state, and continues to do so. Effective Jan. 1, peer review became mandatory here and is referred to, by law, as a mandatory quality review. The MQR law mandates that most New York state firms providing attest services undergo a quality review every three years. By enrolling in the NYSSCPA’s peer review program, a CPA or firm agrees to undergo a quality review—as required by law—and to have that review administered by the NYSSCPA. Sole proprietorships and firms consisting of two or fewer CPAs may be exempt from the quality review requirement, unless the firm performs attest services required by law or performs them for state or municipal departments, boards, bureaus, divisions, commissions, committees, public authorities, corporations, councils, offices or other governmental agencies.

The Society submitted a formal application to become a mandatory quality review sponsoring organization to the state in November, followed by the December submission of a 50-page plan of administration detailing the NYSSCPA’s peer review procedures and plans to provide substantiation that peer reviews administered by the Society are conducted in accordance with the state’s new MQR program regulations.

“By applying and being accepted as a sponsoring organization for New York’s mandatory quality review program, NYSSCPA has agreed to allow the QROC to extend tax credits, changes spending rules for nonprofits

By CHRIS GAETANO
Trusted Professional Staff

G o.v. Andrew M. Cuomo’s proposed 2012–2013 $132 billion budget would reduce spending and try to keep New York state government running on $225 million less than last year. Revealed to the public on Jan. 17, a press release from the office said that Cuomo’s budget would raise $1.5 billion through new tax reforms enacted late last year, to close the $3.5 billion budget gap identified in December.

“Because of the tough choices and the historic reforms we achieved last year, we are able to propose a pro-growth budget, tackle broad fiscal reform, drive accountability in our schools to put students first, and leverage tens of billions of dollars of new investment to create jobs without significant cost to the taxpayer,” said Cuomo in a Jan. 17 press release. “Through fiscal discipline and working in partnership with the private sector, we are making New York a pro-growth state once again. This budget represents the next step in our plan to transform New York state.”

NYSSCPA President Richard E. Piluso expressed the Society’s support of Cuomo’s intentions to introduce fiscal discipline in the state government.

“When revenues are decreasing, as they are in New York state, it is essential to keep operating costs down—this is a basic premise of budgeting and financial planning that all CPAs adhere to,” Piluso said in a release on behalf of the Society. “While the NYSSCPA neither supports nor opposes the methods in which Cuomo aims to reduce the state’s operating costs, what we applaud as CPAs is his stated commitment to do so.”

See Budget, on page 11

See NYSSCPA, on page 9

See Briefing, on page 10

As an expert on the topic, you could provide insights and analysis on the implications of the state's fiscal decisions on the accounting and finance industries in New York State, including the role of the NYSSCPA and its impact on the local economy.
Agreeing to disagree: Relationship building with our accounting standards setters

By RICHARD E. PILUSO, CPA
NYSSCPA President

Last month, I had the opportunity to attend the Financial Accounting Foundation Board of Trustees Capital Markets Dinner. NYSSCPA Executive Director Joanne S. Barry also attended the event, which for us marked a milestone in the considerable effort we have put into establishing a solid, mutually respectful relationship with the FAF and the Financial Accounting Standards Board.

Last August, I submitted to the FAF on behalf of the NYSSCPA a letter supporting the findings of a January 2011 report released by a blue-ribbon panel established by the AICPA and the National Association of State Boards of Accountancy. It was charged with examining how generally accepted U.S. accounting standards might be adjusted to better serve the specific needs of nonprofit entities. The panel’s report recommended that the FAF establish a separate standards-setting board to make exceptions and modifications to U.S. GAAP in order to address the specific needs of private companies. That recommendation has been more controversial, and support seems to be relatively evenly divided.

As part of the FAF’s trustees’ desire to be diligent and mindful of the profession’s desires, FAF President and CEO Theresa S. Polley arranged a meeting with myself, Joanne and FAF Trustee W.M. “Mack” Lawhon. It was a professional, constructive meeting, and it allowed the Society and the FAF leadership to discuss the issue on a direct, somewhat frank level. When the FAF issued its own plan in October, in response to the blue-ribbon panel’s findings, I organized and chaired a task force that included some of our most knowledgeable and dedicated members: President-elect Gail M. Kinsella, J. Roger Donohue, Robert Dyson, Elliot L. Henderson, Rita M. Piazza, Renee Rampulla and Robert E. Sohr. Based on this task force’s deliberations, I drafted a second comment letter to the FAF in December, which reiterated the Society’s position that there should be a separate standards-setting board for private companies that would report directly to the FAF. Both letters were responsive to the FAF’s report and reflected the wishes of our membership.

A second meeting was held with the FAF and FASB representatives. This time, Joanne and I met with Ms. Polley and FASB Chair Leslie Seidman. Again, the meeting was cordial and productive. We discussed both sides of the issue at length, and while we agreed ultimately to disagree, the dialogue was beneficial as the four of us even touched on issues unrelated to the private companies standards, such as not-for-profit accounting standards and the FASB Not-for-Profit Advisory Committee.

Neither party, in either meeting, intended to persuade the “other side” into agreement; rather, these conversations were to ensure that each side fully understood and appreciated the other’s concerns, needs and goals. After that second meeting, Ms. Seidman asked the Society to continue working with the FASB on future initiatives. We were of course flat-tered, and expressed a desire, on behalf of the Society, to maintain a favorable, ongoing relationship with both the FAF and the FASB.

Although these meetings grew out of differing positions on the private companies standards issue, one result is a positively enhanced image of the NYSSCPA in the eyes of the FAF and the FASB. Now we have what I would characterize as a “seat at the table,” and both entities now know firsthand that the NYSSCPA supports the work of the FASB, is an organization open to dialogue, and is passionate about preserving the high standards associated with the profession.

Joanne and I were honored to be included in last month’s dinner, and to be considered part of a very limited, special group of capital market dignitaries, FAF trustees, FASB members and senior staff of the organizations. Throughout the evening, we were able to have conversations with FAF trustees and FASB members, and to discuss one another’s views on standards setting. It was very gratifying to be told that Society comment letters are well received, and that when these organizations deliberate the issues related to draft proposals, our letters receive significant consideration. In less than a year, the Society has been able to build on the relationship our Financial Accounting Standards Committee had already established with the FAF and the FASB, and I am confident in our role in the future of standards setting.

Of course, as president of the NYSSCPA, throughout the evening I fielded compliments for the Society’s good work and participation on the broader standards-setting conversation. But the credit belongs to the dedicated and highly qualified volunteers on our Financial Accounting Standards Committee, among numerous other committees, who work diligently to generate the high-quality comment letters that are responsive of the needs of all our members while providing answers responsible to the needs of our profession.

Interested in writing for The Trusted Professional?

Are you an NYSSCPA member interested in writing for The Trusted Professional? No matter what your practice area, The Trusted Professional might be interested in publishing your work. All published stories should be between 700 and 1,500 words in length and must follow Associated Press—not academic—style guidelines. Submitted stories should be geared toward the education and general interests of the readership. Articles written to sell a service or to promote a business or office will not be considered. Final acceptance of material submitted for publication is at the editor’s sole discretion.

Interested members should email The Trusted Professional Editor, Ami Olson, at aolson@nysscpa.org for more information.
AICPA, CIMA launch new designation

By RICHARD J. KORETO
Trusted Professional Staff

On Jan. 31, the AICPA and the London-based Chartered Institute of Management Accountants unveiled a previously announced new venture: the Chartered Global Management Accountant designation.

According to a joint announcement, the designation was created “to elevate the profession of management accounting.” In the institutes’ launch presentation, AICPA Chairman Gregory J. Anton said that the credential recognizes “the most talented and committed management accountants, with the discipline and skill to drive strong and committed management accountants, public accounting, one of the following conditions, according to ing) members of the AICPA and meet any CIMA, founded in 1919, describes itself as nation will be half CIMA and half AICPA. The real value of the credential for CPAs. Business performance.” Some NYSSCPA members, however, expressed doubt about the value of the credential for CPAs. The joint venture is owned 60 percent by the AICPA and 40 percent by CIMA, although the board that governs the designation will be half CIMA and half AICPA. CIMA, founded in 1919, describes itself as the world’s largest and leading professional body of management accountants.

CPAs can sign up on the CGMA website, although some qualified CPAs report receiving letters that told them they already have the designation, without doing anything. U.S. CPAs who want to obtain the CGMA designation must be regular (voting) members of the AICPA and meet any one of the following conditions, according to the CGMA website:

• Three years in financial (including internal audit) or management accounting experience in business, industry or government, or
• Two years of financial or management accounting experience plus one year in public accounting, or
• Three years of financial/management accounting experience on a consulting basis, or
• Three years in a management accounting role focused on the management and operation of an accounting firm.

There is no cost to maintain the designation until July 31, after which the annual designation fee will be $150. CPAs who are also members of a state CPA society will receive a $50 annual discount.

As long as CPAs remain with the AICPA and pay their dues, there are no other requirements for new. In 2015, CPAs will have to take an exam, but the AICPA clarified that CPAs who obtain their CGMA designation before then will be grandfathered in—they will not have to take any further assessments.

At least for now, there is no competency requirement beyond what AICPA members already have, NYSSCPA Vice President J. Michael Kirkland, who also works in industry, said that only time would tell if the CGMA designation would be of value. He thought its global focus might help CPAs involved in international issues, and said that he was signing up for it. However, he had a problem with marketing it as a gold standard, saying that “being a CPA is a gold standard.”

What CPAs get

By becoming a CGMA, CPAs get the following:

• The ability to use “CGMA” after their names
• A certificate suitable for framing
• Access to CGMA.org (This is open to all CPAs until July 2012, after which it will be open only to CGMA designation holders.)
• CGMA Magazine
• CGMA newsletter
• Networking events
• Tools such as checklists, decision trees and real-world case studies
• Reports on key issues facing businesses in the global economy
• Global economic surveys

Products, including online courses, webinars, digital publications and conferences, available at special pricing for CGMA holders

Mark Leeds, president of the NYSSCPA Westchester Chapter and a management accountant, was a little dubious: “Based on criteria I’ve seen so far, I don’t understand what this will add to management account- ing or me in particular.” CGMA’s sponsors are billing it as a “gold standard,” but Leeds wonders if only a three-year work require- ment makes it a gold standard.

Michele Levine, a member of the Government Accounting & Auditing Committee, said that while many of the same skills and competencies apply to CPAs in government and in business, there are substantial environmental differences, and little was said during the launch web- cast about the designation’s relevance to CPAs in government. However, she did attend the launch webinar, and called the designation “potentially important.”

Society questions usefulness of disclosing audit engagement partner

Let Your Voice Be Heard

CPA.BLOG is the NYSSCPA’s destination to discuss the latest regulatory developments, accounting and financial news, and Society actions.

Read a post, leave a comment at:
www.nysscpa.org/blog

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? Fill out an application online or contact Nereida Gomez, Manager, Committees and Administrative Services, at 212-719-8358 or ngomez@nysscpa.org, to find out more information.

State Society buy-in

The AICPA is trying to market the new designation by forging agreements with state societies. If a state society agrees to promote the designation to its members by placing notices in society publications and on websites, running AICPA-provided articles, distributing flyers at major society events and displaying a CGMA poster in its offices, among other tasks, the AICPA will pay a royalty to the society.

The amounts are based on the number of state society members who sign up for the CGMA designation, and run on a sliding scale from $3 to $15 per member.

At its Feb. 16 meeting, the NYSSCPA’s Executive Committee decided that the Society would not take an official position on the new CGMA designation, and will not enter into an agreement with the AICPA regarding the designation at this time.

rkoreto@nysscpa.org
NOTICE OF THE ETHICS COMMITTEE

Society Executive Committee adopts ethics interpretations

By DEBBIE A. CUTLER, CPA
NYSSCPA Professional Ethics Committee Chair

On Feb. 16, 2012, the NYSSCPA Executive Committee adopted, by unanimous vote, additional modifications to the ethics interpretations of the Code of Professional Conduct proposed by the Professional Ethics Committee. The approved modifications are a result of PEC’s ongoing monitoring of the AICPA’s revisions to the interpretations to the rules of their Code of Professional Conduct.

As reported in the December 2011 Trusted Professional, the Executive Committee approved adopting the AICPA Independence Interpretations. This article identifies additional revisions the AICPA made to their Independence Interpretations. The Executive Committee also approved effective dates for the Conceptual Framework for AICPA Independence Standards (Dec. 31, 2012, with earlier application encouraged by the Professional Ethics Committee) and Independence Interpretation 102-17—Networks and Network firms (effective for engagements covering periods beginning on or after July 1, 2012). Other significant changes to the interpretations include a new definition for, among others, member in business; three new interpretations under Rule 501 (501-8, 501-9 and 501-10), naming the publication where interpretations are to be published (The Trusted Professional); and to affix a specific date on which interpretations are effective (at the end of the month of publication, unless otherwise stated).

Changes to Independence Interpretations

Deleted: 102-8; revision to interpretation: 102-11—Modified application of Rule 101 for engagements performed in accordance with the Statements on Standards for Attestation Engagements; and new interpretations: 102-18—Application of the independence rules to affiliates (this interpretation will be effective for engagements covering periods beginning on or after Jan. 1, 2014; early implementation is allowed); and 102-19—Permitted employment with client educational institution. The corresponding AICPA interpretations are: 101-8 [Deleted], 101-11, 101-18 and 101-19.

Other revisions

Introduction—Other Guidance: (“but are not intended to limit such scope or application” is added to the end of the first sentence, revisions to the fourth and fifth sentences to include the name of the publication where interpretations are published [The Trusted Professional] and to also affix a specific date as the effective date of changes to the interpretation [last day of the month in which the pronouncement is published in The Trusted Professional, unless a later date is specifically indicated], and delete the asterisk * and its explanation at the end of the introduction).

Definitions were revised, added or deleted (Revised: covered model, financial institution, financial statements, joint closely held investment, significant influence; Added: attest engagement, member in business; and Deleted: counsel, ethics rulings and institute).

Interpretations were revised: 201-1—Competence (insert the word “professional” before “service” in fourth paragraph); 203-2—Status of FASB ASC and FASAB interpretations (second sentence of paragraph one, change the Board’s designation of accounting principles to FASB Accounting Standards Codification™ (ASC) and add an “s” to “constitutes”; in the second paragraph, change the reference to the governing accounting principle to FASB ASC and in the last sentence add FASAB; 302-1—Contingent fees in tax matters (added a second sentence to the first paragraph); 501-1—Response to request by clients and former clients for records: revised footnote 1; 501-5—Failure to follow requirements of governmental bodies, commissions, or other regulatory agencies (added reference to the Public Accounting Oversight Board); and three interpretations were added under Rule 501: 501-8—Failure to follow requirements of governmental bodies, commissions, or other regulatory agencies on indemnification and limitation of liability provisions in connection with audit and other attest services; 501-9—Confidential information obtained from employment or volunteer activities; and 501-10—False, misleading, or deceptive acts in promoting or marketing professional services.

Upon the last day of the month of the publication of this article, unless otherwise stated, the approved interpretations will go into effect.

Please refer to the revised interpretations of the Code of Professional Conduct, available online at nysscpa.org/prof_library/ethicsregulation.htm.

A reminder: How New York’s new mobility rule affects CPAs in industry

By J. MICHAEL KIRKLAND, CPA
Vice President, NYSSCPA Board of Directors

Another year has passed, and the New York State Accountancy Reform Law, which took effect on July 26, 2009, is nearly three years old. Since that time, there have been amendments to certain provisions of the law. On Aug. 17, 2011, Gov. Andrew Cuomo signed into law mobility legislation that provides a practice privilege for CPAs licensed in other jurisdictions that the Board of Regents has deemed to have substantially equivalent licensing requirements as New York. The law applies to out-of-state licensed CPAs whose principal place of business is in another state. Out-of-state licensed CPAs would be subject to the regulatory authority of the Regents for any services provided when providing professional services in New York. This new law was effective Nov. 15, 2011.

Among other things, the new law provides that an out-of-state licensed certified public accountant authorized to practice public accountancy through a practice privilege must do so through a public accounting firm registered in this state if the CPA provides any compilation or attest services in New York. An out-of-state CPA authorized to practice public accountancy through a practice privilege and who does not provide compilation or attest services in this state, may choose to register a public accounting firm, but is not required to do so. Further, the new law provides that an out-of-state licensed CPA who has been subject to certain disciplinary action within the last seven years must provide notice to the Department and receive written permission from the Department before he or she is allowed to practice in New York.

Out-of-state licensed CPAs whose principal place of business is in New York must apply for a New York state license if employed by a public accounting firm or in private industry, government or academia, when such employment is considered to be within the scope of practice of public accountancy in New York. Please note that the scope of practice in New York was expanded in 2009 to include any accounting, tax, finance or management advisory work that a CPA does in the fields listed above, regardless of whether an independent report or opinion is issued. Individuals should contact the State Board for Public Accountancy office with questions about employment within the scope of practice of public accountancy.

View this story at trustedprofessional.com for more information about the Accountancy Reform Law.
Mandatory Quality Review Is in Effect in New York

The Mandatory Quality Review required under NYS law became effective January 1, 2012.

- Effective Jan. 1, 2012, most CPA firms that provide attest services in NY State must undergo quality review every three years.

- Sole proprietorships and firms with two or fewer CPAs that do not perform attest services for state or municipal governments or perform attest services pursuant to NYS law may qualify for exemption from the mandatory quality review (MQR).

- Sole proprietorships and firms with two or fewer CPAs that qualify for exemption may also voluntarily undergo a quality review.

- A firm that is subject to the MQR requirements must provide the State Education Department (SED) a copy of the report and acceptance letter for an acceptable quality review conducted within the prior three years, each time the firm registers with the SED, beginning with the firm’s registration application for any registration period that begins on or after January 1, 2012.

- If you’re wondering what you need to do to comply with the new law, The New York State Society of CPAs Is Here to Help.

- The NYSSCPA has been approved by the SED as a sponsoring organization to administer quality/peer reviews in NY State.

- To enroll for MQR, firms not currently enrolled in a peer review should submit a Peer Review Program Enrollment Form to the NYSSCPA, indicating the firm agrees to have a peer review of its accounting and auditing practice completed once every three years. Contact the NYSSCPA Peer Review Program at 212-719-8300 or peerreview@nysscpa.org for an enrollment form.

- In most cases, firms already in the AICPA peer review program will satisfy the MQR requirements for an acceptable review.

Contact the NYSSCPA Peer Review Staff at 212-719-8300 or visit www.nysscpa.org/page/government-affairs/mandatory-quality-review for additional resources.

Look for an article at trustedprofessional.com for details on MQR requirements.
Society questions usefulness of disclosing audit engagement partner

By CHRIS GAETANO
Trusted Professional Staff

The Public Company Accounting Oversight Board has proposed that audit reports begin including the name of the engagement partner—as well as other people and independent public accounting firms that took part in the audit—as part of a measure to increase transparency and accountability. But in a Jan. 4 comment letter, the NYSSCPA questioned how useful the measure would be, and suggested that it may lead the public to draw inappropriate conclusions about an engagement partner’s authority.

“I think the public would presume that the audit partner is primarily responsible,” said Elliot A. Lesser, a principal drafter of the letter and a member of the Auditing Standards Committee. Most people would not understand what resources the firm brings to bear or what other people are responsible for conducting an audit, and would focus on just the partner named in the audit report, Lesser added. “It leaves, in my view, the wrong impression.”

The comment letter, authored by members of the Auditing Standards and the SEC Practice committees, responds to a request for public comment on PCAOB Release No. 2011-007, Improving the Transparency of Audits: Proposed Amendments to PCAOB Auditing Standards and Form 2, which was released on Oct. 11. If implemented, the proposal would—

• require the audit report to disclose the name of the engagement partner responsible for the most recent period’s audit;

• require PCAOB-registered firms to disclose the name of the engagement partner for each audit report already required to be reported in their PCAOB annual report on Form 2, which, among other things, requires the disclosure of information about audit clients and audit reports; and

• require disclosure in the audit report about other persons, outside the engagement partner, and independent public accounting firms that took part in the most recent period’s audit.

The PCAOB proposal was in response to concerns that investors, who rely on the audit report as a primary source of information about the audit, know little about the key participants of the audit, including the responsible engagement partner and other firms that contributed to the work. For example, investors may not know that two firms with a common brand name are, nonetheless, distinct entities, said the proposal, or that another firm with no affiliation to the audit firm was the one that actually conducted certain audit procedures, particularly if the audited entity is in a different country from that in which the audit firm is located.

“Little, if any, of this is transparent to investors. The audit report typically contains no information about who served in the role of engagement partner, or whether the firm issuing the report actually performed all of the work,” said the PCAOB proposal.

But rather than enlighten investors, it might confuse them, said the Society’s comment letter. The Society pointed out that it is the firm that is ultimately responsible for the audit by developing the methodology, processes and procedures that are consistent with PCAOB auditing standards, as well as training personnel, deciding which partner will serve as engagement partner, assigning the engagement team, establishing review procedures, establishing consultation requirements and procedures, and assuming the risks associated with the engagement through client acceptance and retention.

“The conduct of an audit is a shared responsibility and it’s the firm’s responsibility, using the firm’s resources and numerous other resources beyond the engagement partner,” said Lesser. “And, really, disclosing the engagement partner doesn’t mean anything because it’s a shared responsibility.”

Lesser also said that what other accounting firms contribute to an audit should be between the auditor and the audit committee, and that he didn’t see what additional credibility this new information would contribute to the audit. There could also be the unintended consequences of increased legal liabilities for the engagement partner if the proposal goes through, he added.

Individual auditors are already highly accountable in the engagement, so further public scrutiny wouldn’t add much to the already high standards to which auditors hold themselves, Lesser said. And firms already maintain guidelines for how to deal with partners who operate outside those standards, he pointed out.

“Every partner wants to do the right job and conduct an audit of the highest possible quality, and there are many punitive actions a firm will take if that quality is compromised,” said Lesser. “The partner can lose capital or be dismissed from the firm. So merely disclosing the name is really secondary. A partner who conducts a poor audit will certainly [experience] significant retribution from the firm.”

Additional principal drafters of the comment letter were Auditing Standards Committee member J. Roger Donohue and Robert E. Sohr of the SEC Practice Committee.

The comment period closed Jan. 9. To read the Society’s comment letter on this and other issues, visit nysscpa.org/page/society-comment-letters.

cgaetano@nysscpa.org

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www.trustedprofessional.com
Trachtenberg, NY taxpayer rights advocate, departs for private sector

By RICHARD J. KORETO
Trusted Professional Correspondent

The New York State Department of Taxation and Finance is seeking a new taxpayer rights advocate. Jack Trachtenberg, the first deputy commissioner to serve in the role, left the position Feb. 22 after what a department release described as “a successful two-year tenure,” to pursue an opportunity in the private sector.

In the statement, Commissioner Thomas H. Mattox thanked Trachtenberg “for his hard work launching the Advocate’s Office and making it such an effective function in a relatively short period of time.” Mattox noted that the office had helped more than 2,000 taxpayers.

In 2011 alone, the Office of the New York State Taxpayer Rights Advocate resolved 1,600 cases, mediating on behalf of taxpayers, and 65 percent of those cases received full or partial relief, according to the release. The office also successfully promoted legislation that created a 20-year statute of limitations on tax liability as well as new settlement provision to assist taxpayers experiencing undue economic hardship.

Trachtenberg had a positive relationship with the NYSSCPA during his tenure. In March 2011, he wrote an article for the monthly digital publication, Tax Stringer, and has spoken before multiple NYSSCPA technical committees and FAE events.

Louis E. Feinstein, a member of the NYSSCPA’s Taxation of Individuals Committee, described Trachtenberg as “knowledgeable, fair and open to ideas.” He added that Trachtenberg had delivered “interesting and informative presentations’’ to the NYSSCPA’s New York, Multistate and Local Taxation Committee—of which Feinstein is also a member—and the New York Tax Study Group, an organization of tax department heads at New York law and CPA firms.

Finding a new advocate

In the search for a new advocate, the department has stated that applicants are required to have a bachelor’s degree, although “preferred qualifications” include a law degree or CPA designation, or extensive experience in tax administration or tax arbitration. Applicants can send résumés and cover letters to commissioner@tax.ny.gov.

Departments spokesman Ed Walsh said there was no specific deadline for a replacement, and that the department would work to balance filling the spot as soon as possible and finding a high-quality candidate. He said the department hoped for and expected a large pool of candidates. The new advocate will, like Trachtenberg, have the title of deputy commissioner, Walsh confirmed.

At press time, Trachtenberg could not be reached for comment.

rkorete@nysscpa.org
Reformed fraudster reveals tricks of the trade

By CHRIS GAETANO

 Trusted Professional Staff

Beware the nice ones. That is the advice former CPA and reformed white-collar criminal Sam E. Antar gave to Staten Island Chapter members during a CPE event focused on financial fraud.

Antar, the cousin of Crazy Eddie electronics founder Eddie Antar, joined the retail chain in the 1980s and as CFO helped enable its multimillion-dollar fraud, which involved skimming and underreporting income and overstating income to inflate stock prices, according to a history of the fraud on Antar’s website.

Sam Antar provided key testimony to the government in exchange for leniency and was sentenced to six months’ house arrest, 1,200 hours of community service, three years’ probation and $10,000 in fines and fees after being convicted of $500 million in securities fraud.

“Which today doesn’t seem so big but back in the day was really, really big,” he said. He regularly speaks publicly about white-collar crime, using his own experiences as examples.

How criminals manipulate

White-collar criminals measure their effectiveness by how likeable they are, Antar said in an interview with The Trusted Professional. The more their victims like them, the easier it is to rip them off. White-collar crime relies on deceit and misdirection, two things that require a congenial environment to operate effectively.

“I say, watch the guys who’re nice to you because, as a criminal, I was nicer to my victims than my friends. Just because someone appears to be likeable doesn’t mean they’re good people,” he warned. “You have to steal with a smile.”

Most people are wired to assume the best in people and give them the benefit of the doubt, said Antar. That may generally be a good quality, but is a poor defense against scammers. Many of the things that make normal people capable of being responsible actors in society are the same things that can make people vulnerable to white-collar crime, Antar said.

“We [criminals] consider your humanity, your ethics, your morality, your good nature, as weaknesses to be exploited. While they’re admirable traits, they limit your behavior but don’t limit mine as a criminal, because I don’t care about your morality,” said Antar.

“I’m just looking to exploit it. The things that make you a good person make me a more capable criminal.”

The fraudster focuses their concerns not on obstruction—which raises immediate red flags—but on misdirection. A CPA may realize that some of the numbers don’t check out, but may miss the significance if they’re unprepared for the psychological games a white-collar criminal will play, he said.

“They’re looking at the numbers, at the documentation, looking to check this against that,” Antar said. “And that’s all fine and dandy, but I’m a criminal and I know how to manipulate that situation. … The most important thing we don’t teach is how to handle the [lies], the hars.”

He noted that he became adept at manipulating the accountants in his own company to “make them into enablers,” through aggressive likability and familiarity with the relevant actors.

“The more I’m with you, the more I can get you to like me as a criminal—without even knowing I’m a criminal. I’ll know your tastes, your politics, what you like, what you dislike,” he said.

And a reputable past doesn’t necessarily guarantee good behavior either, Antar said. Think of Bernie Madoff—currently sitting in prison on a 150-year sentence—who had served as chair of the Nasdaq stock exchange, he said. Criminals build “walls of false integrity” to prevent people from questioning their actions.

Implied credibility makes deception harder to unravel.

Antar advised against trusting anyone 100 percent, regardless of their past credentials. Using himself as an example, he noted his extensive experience teaching white-collar fraud detection and prevention to organizations like the FBI, the IRS and the Justice Department, and Stanford and Columbia law schools.

“It may sound admirable, but you’re giving me implied credibility. How do you know I’m still not a criminal today?” he said. “You don’t know.”

An insufficient system

Antar described two types of criminals: crossover and career.

The crossover criminal has led a relatively normal life but then falls to temptation and commits a crime when given an opportunity. The career criminal, on the other hand, isn’t just tempted by opportunity, and doesn’t see anything wrong with committing the crime, if he’s good at it.

Things like mandatory ethics courses and harsh sentences may dissuade the crossover criminal, but does nothing to stop the career criminal, he said. They may be aware of things like ethics and morality, but they don’t really think they apply to them.

“When I was doing my crimes, I didn’t think in terms of right or wrong. It was just my normal lifestyle,” Antar said. “To the career criminal like me, there’s no morality. There’s nothing to understand. You have to take the morality out so you can understand the rationale of their actions.

“Take guys like Bernie Madoff,” he continued. “These are intelligent guys. Smart guys. Probably went to college. Took classes in ethics and morality. Saw other criminals go to jail. Did it stop them? If Bernie Madoff went to jail for 150 years, would any other crimes in progress stop? Would career criminals stop? Find God and morality? Ain’t gonna happen.”

Increased dedication to training law enforcement and CPAs in the “science of deception” would help, he said, but lamented that there are not enough white-collar crime personnel in law enforcement agencies.

This is unfortunate, he said, given the large amount of time and resources that a white-collar fraud case demands.

“So, most criminals don’t get caught, and there could be dozens of Bernie Madoffs we just don’t know about,” he said. “When you go back to organized groups of criminals, you find they’ve been doing it for years.”

Anthony J. Maltese, who organized the chapter event, said that he and others who attended would be more on guard when dealing with people after hearing what Antar had to say.

“I think we all feel a little bit more skeptical about certain situations and how they present themselves to us, especially for performing an audit or review,” he said.

Maltese added that many in the room remembered the Crazy Eddie scandal firsthand.

“Probably most of us had purchased merchandise from the store,” he said.

cgaetano@nysscpa.org

“I say, watch the guys who’re nice to you because, as a criminal, I was nicer to my victims than my friends. Just because someone appears to be likeable doesn’t mean they’re good people.”

You have to steal with a smile.”

— Sam E. Antar, former Crazy Eddie CFO
Jane Briggs, a spokesperson for the SED, to oversee its peer review program,” said Jane Briggs, a spokesperson for the SED. That oversight includes QROC or SED attendance at meetings of the Society’s Peer Review Committee and report acceptance bodies, Briggs said. The Society will also be subject to periodic evaluations by the SED or the QROC, must provide access to quality review reports and procedural documents, and is required to submit an annual report to the QROC detailing the results of the program, including information about completed reviews and the most common deficiencies noted by reviewers, she added.

For New York CPA firms that have never undergone a peer review of their attestations services but are now required to do so, enrolling in the NYSSCPA’s peer review program allows the Society to administer and oversee the appropriate quality review, in line with the new MQR provisions.

“The Society has been developing a plan for how to best administer and oversee the mandatory quality review requirement since 2008,” said NYSSCPA Executive Director Joanne S. Barry. “CPAs who enroll in our peer review program will work with the only sponsoring organization approved by the SED, and will have the benefit of our years of preparation and planning as they navigate this new regulation.”

During its meeting to discuss the Society’s application as a sponsoring organization, the five-member QROC had two questions: Is the NYSSCPA prepared to handle an increase in quality review workload, and how is the associated administrative fee structured?

The Society currently employs one full-time peer review technical manager, but also contracts with three additional reviewers on an as-needed basis. The Society, represented at the QROC meeting by Director of Quality Enhancement Ernest J. Markezin, explained that there are plans to augment this staffing to handle the additional peer reviews. The Society expects to process up to an additional 1,000 peer reviews every three years with the implementation of the MQR requirement.

Upon enrolling in the peer review program, firms must pay an administrative fee before scheduling a review. This fee covers the costs of the administrative tasks that go along with each review, such as scheduling, technical review, committee acceptance processes, verifying the education and experience of the reviewers, performing oversight functions and maintaining a database. It does not cover the cost of the review. An enrollee’s fee is calculated based on the type of review being performed, firm size, and Society membership (nonmembers pay a surcharge to cover up-front database entry costs that are not necessary for existing members). There is a maximum fee ceiling in order to keep costs reasonable. The cost of the triennial review itself is a negotiated amount between the firm and the reviewer.

To enroll in the NYSSCPA’s peer review program, visit nysscpa.org/pdfs/peerreviewform.pdf to download an enrollment form. For additional information about MQR and to determine if you or your firm must comply, visit nysscpa.org/page/government-affairs/mandatory-quality-review.

The Society is currently the only approved sponsoring organization for the MQR program; for information about how to apply to become a sponsoring organization, contact the New York State Board for Public Accountancy at 518-474-3817, ext.160, or cpabd@mail.nysed.gov.

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provisions of the Uniform Accountancy Act, in some form, have already been passed into law in New York through the accountant reform act, such as the requirement of 150 hours of education and mobility, which allows CPAs in New York to serve clients in other states and for out-of-state CPAs to serve clients in New York without having to register with the visiting state’s licensing authority. But should New York take the next step and adopt non-CPA firm ownership? Weinstein, whose multistate firm has about 170 partners and principals, said it should.

Work done by CPA firms today involves the skill sets of many diverse people ranging from not just CPAs but attorneys, information technology professionals, business valuation experts and international taxation specialists—and “they’re not all CPAs,” he said. Indeed, it would be hard to imagine being able to provide quality work without them, he added.

“So we don’t believe we would be able to provide effective audits, which we think serves the public interest, without attracting and retaining people from diverse backgrounds,” Weinstein said. “We understand that they are not CPAs. They are with the firm and do follow the ethical compass we have.”

The best way to ensure accountability, he said, is to make sure that these non-CPA players have “skin in the game” and “capital at risk,” which could best be facilitated by non-CPA firm ownership.

Sobel, whose firm allows individuals who are not CPAs to own a minority stake in a CPA firm, agreed with this point, adding that non-CPAs are essential to maintaining firm competitiveness. For example, he said, there are certain accountants who aren’t CPAs but come from a law enforcement background and probably know “more about fraud and white collar crime than any CPA I’d ever met.” So, “to treat them as a second-class citizen is a little disconcerting. They are, at least in a collegial sense, our partners, and add just as much value as anyone else.”

Goldfarb, however, disagreed with this assessment, saying that the CPA profession began on an auditing plane and, because of this, bringing a non-CPA into a CPA practice is against the public interest. Regardless of whether it wouldn’t do any harm was beside the point, he said. The question is really, what will help the public?

“When the code is primary,” Goldfarb said. “We don’t make business decisions based on business [factors] for our clients, [because] auditing is primary. We take that quite seriously, and I think a CPA firm, known as a CPA firm in the state of New York, should in fact only be owned by CPAs.”

Speaking to the point that non-CPAs are vital to a firm’s functioning, he said that if they do important work, even if they’re not owners, they no doubt have influence in the firm and that, even without a vote, they can still make that influence known.

However, Sobel, speaking from his own experience with a New Jersey firm that does business in New York, disagreed. He said that, despite having non-CPA firm owners in New Jersey, he was required to restructure his firm when he registered it in New York, since New York does not allow non-CPAs to own any stake in a CPA firm.

“So you can only imagine what it was like to talk to our partners who were non-CPAs and tell them they weren’t partners, but were principals. They could still share in the profits, but would no longer have a vote or say in the organization. Needless to say, it didn’t go over particularly well,” he said.

Goldfarb also expressed concern about how non-CPA firm ownership might change the power dynamics of smaller firms, such as in cases where there are only two voting partners. Introducing a non-CPA to such a situation could have a huge impact on who has the decision-making power, he said, which is a concern to him. He said that he would be very concerned if there were, say, four partners in a firm, three of whom were not CPAs, even if together they owned less than 50 percent of the company.

“I would be ouvoted because it would be 3-1, and that would concern me because now the control is really in the non-CPA, even if ownership is 49 percent.”

“Maybe I’m only doing all the administration; maybe I’m the managing partner.”

However, Weinstein didn’t think much of this concern, and said that in such a case, there are pretty clear protocols on what to do.

“To the extent that you’re a CPA and you have three non-CPA partners with a significant economic interest in your firm, you have a right and an obligation as a CPA that—if they do something you think is inappropriate—you would resign from that firm and it would no longer be a CPA firm. So it would be a huge impact on how we come to regulation for non-CPAs.”

Another point raised by Talbert addressed states that have adopted non-CPA firm ownership, where the legislation only legitimized that which was already happening. Even before South Carolina’s law was passed in 1998, he said, several firms in his state had non-CPA firm ownership in practice, if not officially on paper. It was also pointed out that even though Sobel’s firm may not have non-CPA firm ownership when it operates in New York, structurally not much changes and the same people still sit at the table.

“Our law was passed in 1998, and the reality in 1998 was that we already had it, it existed, and I guess the position I would take is that if something is in existence in substance, why would you fail to regulate that?” Talbert said. He said that the reason South Carolina went with requiring a supermajority ownership was pure “happenstance.”

When the state was adopting its non-CPA firm ownership legislation, the Uniform Accountancy Act that it was modeled after demanded a supermajority of CPA owners. By the time South Carolina’s legislation got to a vote, the UAA had been altered to instead just require a simple majority.

“So, why supermajority? Happenstance. Had they done the same thing with the UAA when we started our initiative, we probably would have [a simple majority] today,” he said.

However, regulation was another reason why Goldfarb felt hesitant about non-CPA firm ownership—non-CPA owners would not be regulated by the state board of accountancy, he said.

“The reach of the state board is not for the non-CPA owner,” Talbert said. “They can’t discipline the non-CPA, and that concerns me. Where is the reach?”

The reach, said Weinstein, is the firm itself. Within the firm, partners can lose their capital or be kicked out of the business, so it’s not as if non-CPA firm owners are acting without accountability. He also noted that, within his own firm, non-CPA owners are still expected to hold themselves to the same ethical standards of CPAs.

Goldfarb, however, said that this is a decision on the part of the individual firm and that nothing forces firms to institute this; further, it still limits the extent to which individuals can be controlled by regulators. He noted that internal discipline matters still don’t reach as far as the state board would for a CPA. There would be no way to ensure the competence and control of a non-CPA owner because they wouldn’t have as much regulation.

At the end of the discussion, Goldfarb summed up his position: “I don’t see where the public interest is enhanced by having non-CPA owners,” he said. “Whether they are an owner or not, you still employ them to do the best possible audit. Making them partner does not make them better, it does not enhance the audit and it does not enhance the firm. Maybe the public interest is not hurt [by non-CPA owners], but our primary purpose is what is in the best interest of the public, not what doesn’t hurt the public.”

Weinstein provided a final rebuttal: “The CPA profession has changed over time, and 70 years ago and prior to that we weren’t known for being tax preparers,” he said. “But as the world we practice in changes, one thing doesn’t change: the basic tenet for what it means to be a CPA and your personal obligation and responsibility to hold that designation.

“Ethics is primary,” Goldfarb said. “We have always come to reasonable terms on that, why would you fail to regulate that?”

The best way to ensure accountability, he said, is to make sure that these non-CPA players have “skin in the game” and “capital at risk,” which could best be facilitated through allowing non-CPA ownership of CPA firms.

“I think it’s not as if non–CPA owners are acting without accountability. He also noted that, within his own firm, non–CPA owners are still expected to hold themselves to the same ethical standards of CPAs.

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Watch the webcast of the breakfast briefing, as well as two postdiscussion interviews with audience members, at youtube.com/user/TheNYSSCPA. cgaetano@nysscpa.org

**Briefing**

Continued from page 1
Budget
Continued from page 1

**Efforts to lower spending, consolidate departments**

Many of Cuomo’s proposed cuts would be made possible through reorganization efforts within the state government, such as consolidating the number of statewide Department of Transportation regional offices from 11 to six, merging the Division of the Lottery and the Racing and Wagering Board to establish a single gaming entity, and tasking the Department of Taxation and Finance with collecting debts for the Higher Education Services Corporation, according to the briefing book. The state would also reorganize how it interacts with nonprofit organizations, which provide many services on behalf of the state, according to the briefing book. A new spending plan beginning 2012–2013 would require a nonprofit organization to put at least 85 percent of every public dollar it receives toward direct services, rather than administrative costs, and any executive’s compensation funded with tax dollars would be capped at $199,999, according to the proposed budget. Jeffrey R. Haber, chair of the Society’s Not-for-Profit Organizations Committee, said that this provision is being discussed extensively in the nonprofit world, though much of the conversation is centered on exactly how the new rules would work. For example, he said, it’s unclear whether Medicare funds count toward the 85-cent-on-the-dollar figure, if hospitals are included in the provision, and whether the $199,999 compensation cap applies only to an executive’s salary, or to total compensation.

David M. Rottkamp, the vice chair of the committee, agreed that it’s too soon, and the proposal too vague, to accurately predict how the compensation provision would play out. On the other hand, the new 85 percent ratio could have an adverse impact on smaller nonprofits in New York state, according to Rottkamp. “It will be difficult for smaller organizations to meet those thresholds, just by the nature of their operations and lack of economies of scale for those smaller companies,” he said. “You may see an uptick in mergers and acquisitions, smaller companies being merged in and consumed by larger organizations. That is one of the detriments.”

Haber said the general consensus on this proposed rule is unfavorable. “No one is happy with it,” he said. “I think there are a substantial number of entities that will be affected.”

The governor’s budget proposal would also attempt to save money by eliminating automatic cost-of-living increases for all state-funded health and human service providers. Automatic increases would be eliminated in the 2012–2013 fiscal year. Over the course of a year, the government would craft a “national performance-based awards system,” and would roll out the system beginning 2013, according to the briefing book. Richard M. Lipman, a member of the Society’s Healthcare Committee, did not believe this would bode well for healthcare providers in New York. “If [the state] eliminates the cost of living increases, [employers would be] dealing with a fixed pot of money and [they will] be unable to give wage increases to the staff who work for them, not to mention the cost of supplies and other expenses, which would be rising,” Lipman said.

**Tax provisions**

Like last year’s spending plan, the 2012–2013 budget does not include new tax increases or fees. Significant changes in New York tax policy actually occurred in December, with a law that adjusts the top tax bracket, established Alfred Grillo, chair of the New York, Multistate and Local Taxation Committee. The new top tax bracket affects New Yorkers with an annual income exceeding $2 million, taxing them at 8.82 percent, according to a press release. Previously, annual incomes exceeding $300,000 put residents in the top tax bracket, where they were taxed at 6.85 percent. According to the briefing book, the measure also enacted $690 million in personal income tax cuts for middle-class New Yorkers, and eliminates or reduces the MTA payroll tax for more than 700,000 taxpayers, a large number of whom are small business owners.

The governor’s budget does contain a number of tax reforms. For example, under the proposed budget, banks would no longer be able to earn fees from money they collect on behalf of the state government, according to the briefing book. Other new enforcement mechanisms would prevent vendors subject to sales from registering with the state until all prior tax liabilities have been paid in full, and would prohibit delinquent taxpayers from taking part in the School Tax Relief program, which provides homeowners with partial exemption from school property taxes, per the briefing book. The proposed budget would also extend or expand upon several existing tax credits that had been set to expire in 2012, or did expire in 2011, according to the briefing book. As outlined in the budget, these credits include:

- The commercial production tax credit, which covers 20 percent of qualified production costs for television commercials, would be extended through 2017.
- The biofuels production credit, a 15-cent-per-gallon credit applied to producers of biofuels after the first 40,000 gallons produced, would be extended through 2019.
- The alternative fuels tax exemption, which provides a 20 percent tax exemption on other nonconventional fuels, would be extended for seven years.
- A new budget provision would make permanent the earned income tax credit for lower-income parents paying child support. An existing sales tax exemption for solar equipment purchases would be expanded to include commercial customers and local governments; currently, only residential and industrial consumers qualify for the exemption.
- The residential solar equipment tax credit, which offers a 25 percent credit toward the purchase of residential solar equipment, would be extended to include a personal income tax credit for up to 12.5 percent of the annual leasing costs of residential solar equipment, according to the briefing book. This credit is available only for lease agreements entered into on or after Jan. 1, 2015, according to one of the governor’s 30-day amendments.
- The proposed budget would add an additional $8 million over a five-year period to the low-income housing tax credit program, which provides credits to taxpayers who develop qualifying housing projects for low-income New Yorkers. About $400 million worth of credits would be awarded through the program, which is estimated to produce 600 units of low-income housing per year. Grillo doesn’t think the governor’s proposed budget would significantly affect most individuals or require much active tax planning. “I don’t see any real big shifting from one year to another,” he said. “I don’t think there’s anything [in the proposed budget] that’s really going to generate a lot of activity, at least in the changes from the individual tax intuition perspective.”

State Comptroller Thomas P. DiNapoli said in a Jan. 17 statement that the proposed budget “appears” to build on progress that has already been made toward aligning recurring revenues with recurring spending and guarding against “fiscal gimmicks that exacerbated the fiscal difficulties of recent years.” He said that his office will review the budget and provide an analysis; at press time, one had not been released to the public.

Republican Senate Majority Leader Dean G. Skelos said he was pleased with the budget’s emphasis on fiscal responsibility. “I am very encouraged that the Governor has again proposed a budget that closes the deficit by reducing spending and without increasing taxes or fees, and includes plans for job creation, property tax relief and other reforms to make sure tax dollars are spent wisely,” Skelos said in a Jan. 17 statement. He emphasized the importance of resolving the issue of teacher evaluations to open up federal aid for public schools, and said he was “confident we can once again pass an early and fiscally responsible budget that protects taxpayers and helps create new jobs.”

The Legislature will analyze and deliberate on Cuomo’s budget, and propose changes to it. Lawmakers will have through March 31 to agree upon and pass the 2012–2013 budget before the next fiscal year begins April 1.

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“Your may see an uptick in mergers and acquisitions, smaller companies being merged in and consumed by larger organizations. That is one of the detriments.”

— David M. Rottkamp, vice chair of the Not-for-Profit Organizations Committee

The Trusted Professional  /  March 2012
PFP Conference looks at a different kind of client service

By CHRIS GAETANO
Trusted Professional Staff

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AIE’s Personal Financial Planning Conference, held at the NYSSCPA’s Manhattan offices on Nov. 3, focused on how CPAs can best help clients navigate the complex and occasionally dangerous world of personal finance in a time of rapid economic change around the world.

Walter M. Primoff, a member of the Personal Financial Planning Committee and a personal financial specialist, urged CPAs to become proficient personal financial planners during his morning presentation—though he understood that some practitioners might be hesitant to take their first step into the field.

Primoff acknowledged differences in the respective paradigms of the accounting and financial planning world. Accounting is detail oriented, while financial planning emphasizes expertise and relationships. Nonetheless, becoming an effective financial planner can differentiate an already-accomplished accountant in the market, especially in conjunction with IRS-licensed tax return preparers, said Primoff.

Primoff noted that most high-net-worth clients don’t have the time or expertise to handle their own financial planning, and they still need help from a trusted professional on a variety of complex issues, such as college or elder care planning.

“If you do not help, who will?” said Primoff.

Untangling the numerous tax issues that are the result of same-sex marriage legalization in New York state presents such a complex situation, which attorney Casey Sprock, a partner at Baldwin & Sutphen, LLP, talked about during his own presentation.

Many of the tax-related complexities faced by same-sex couples have to do with the conflict between state law, which recognizes same-sex marriage, and federal law, which does not. While the new state law affords married same-sex couples the ability to transfer property to each other without incurring state taxes, health care decision-making rights and recognition of the marriage for insurance purposes, many rights have still not been granted, Sprock said. The federal Defense of Marriage Act, which defines marriage specifically as the union between a man and a woman, prevents same-sex couples from taking advantage of things like the federal gift tax exemption, the federal estate tax exemption, spousal Social Security benefits, preferential federal income tax treatment of retirement assets, and federal or military spousal employee benefits.

Individuals in same-sex marriages may file a joint state tax return as a married couple, but are required to file individual federal returns; such tax filers have to be prepared to meet both mandates, he said.

Paul Robertson, a senior portfolio manager with Bernstein Global Wealth Management, reminded conference attendees that any client’s tax-related decisions this season will be made in the shadow of extreme uncertainty in the financial markets, driven partially by the aftershocks of the most recent crisis and partially by what some fear could be the run-up to an entirely new one. The European sovereign debt crisis, the U.S. deficit and persistent unemployment—among other factors—have investors fearing that the future holds only volatility, increasing anxiety throughout the market.

Robertson acknowledged that there are still ways to minimize risk exposure, despite the unpredictability of the financial markets. He noted that while stocks did poorly from January to September 2011, with total returns actually falling globally by about 12.2 percent, bonds have done their job in offsetting equity losses, with total returns of taxable bonds increasing by 4.7 percent, and returns of municipal bonds increasing by 4.8 percent in the same time period. He said that people can minimize risk through dynamically allocating assets, modifying the balance between stocks and bonds, as needed, to fit the current risk environment.

Robertson predicted that as the market stabilizes, however, future bond returns will be muted. Cash dividends from stocks are already outperforming yields on 10-year Treasury bonds, he said.

Properly taking advantage of long-term market conditions could expose one to federal estate tax, another area fraught with uncertainty. Robert S. Barnett, a member of the NYSSCPA’s Estate Planning Committee, helped attendees clear up at least some of the confusion, discussing the impact of the Tax Relief Act of 2010, which set the estate tax at up to 35 percent for estates of $5 million or more and restored the tax that had expired at the end of 2009. Had Congress not passed the law, the tax would have affected estates of $1 million or more, at a rate of up to 55 percent, Barnett said.

The afternoon sessions were a series of concurrent roundtable discussions with focused topics, followed by a wine-and-cheese networking reception for conference attendees, speakers and moderators. This new format, which debuted at the conference, was popular among participants and allowed audience members to have more in-depth discussions with the panelists about issues of concern to themselves and their clients, said conference chair Jay G. Sanders.

Panel topics included financial planning for women, estate planning, college planning, a discussion about planning for those with special needs, the AICPA’s personal financial planning resources and technology, enhanced variable annuities and long-term-care planning, new developments in life insurance, practice issues and regulations in personal financial planning practices, retirement income math, and elder abuse. The sessions featured repeat appearances by many of the morning’s speakers, as well as by other members of the Personal Financial Planning and Estate Planning committees.

cgaetano@nysscpa.org

Why I’m a Member

Name: Candice R. Meth

Joined: 2010

Chapter: Manhattan/Bronx

Current position: Senior Manager, Not-for-Profit Services Group, EisnerAmper LLP in New York City

Society highlights: Statewide Not-for-Profit Organizations Committee

Hobbies/activities: Sports (supports the Yankees, the Giants and the Rangers)—“But don’t even mention the Mets to me!” she said), running in Central Park

Fun fact: Started as an intern at EisnerAmper and never left

Why I’m a member: “Through the Society’s nonprofit conferences, I get to see the power players in our industry—and for me it’s a great way to meet those people and form relationships with them and share in their knowledge, because I’d also like to be one of them one day.”

Personal quote: “I find what my clients do to be so refreshing, I really enjoy the experience of working with them. It’s always a surprise to find how many wonderful organizations there are out there, especially given the fact of how hard it is in this economy to run an NFP. It’s amazing, and it’s good to know how many organizations there are out there that are trying to help.”

To become a member, visit www.nysscpa.org/join or email Cara Patterson at cpatterson@nysscpa.org.
Europe considers financial transactions tax to stabilize economy

By CHRIS GAETANO
Trusted Professional Staff

As the effects of the financial crisis continue to linger, regulatory authorities—particularly in Europe—are crafting new tools to combat systemic financial instability. But according to attorney Lee Sheppard, a tax policy expert and Tax Notes contributing editor, who spoke at the FAE’s Taxation of Financial Instruments and Transactions Conference on Jan. 11, these steps may have unintended consequences.

This is the case with Europe’s efforts to get its sovereign debt crisis under control, especially in countries like Greece, which has felt the brunt of the crisis in recent years, Sheppard said. “We’re in a sovereign debt meltdown now. We’re looking at the situation where there are problems in the banking system—the financial system—that have not been resolved.” To address this debt crisis, Greece recently received its third round of bailouts, funded mostly by Germany and France. The bailouts have allowed Greece to thus far avoid default, but the European Commission, the European Central Bank and the International Monetary Fund’s preliminary debt sustainability analysis, dated Feb. 15, revealed that backers are still not confident that Greece will ever be able to pay down its debts, even in a best-case scenario.

One of the biggest and most far-reaching steps that European leaders are planning to bring the crisis to heel is the imposition of a tax on financial transactions, she said. According to the European Union resolution on the matter, SEC(2011) 1102, the tax would be 0.1 percent on financial transactions and 0.1 percent on derivatives, and would be effective by Dec. 31, 2013. Sheppard said that German Chancellor Angela Merkel wants to have the implementation planned out by the end of March 2012, “so they are going forward on this thing.”

The purpose behind the tax is twofold, Sheppard said. It would discourage excessive speculation—which is what European leaders see as one of the causes behind the most recent financial crisis—by applying a tax to each financial transaction. The tax would also fill Europe’s coffers, so that it can be better prepared for the next crisis. Sheppard said that Europe’s current capacity to respond to another economic shock, which would rely mainly on its new rescue fund, the European Stability Mechanism, is worrisome—estimates indicate that to properly respond to a crisis, the ESM would need a minimum of about €2 trillion ($2.6 trillion). At the moment, she said, the EU has only about €800 billion ($658 billion) on hand for the fund, more than €200 billion ($263.5 billion) of which is currently propping up Greece.

“There’s not really any firepower there. So they’re in a mentality where they want money, fast, and the financial transaction tax, … is a way to get money from the same sector that took you to the toilet,” Sheppard said.

What would it mean to the U.S.?

The financial transactions tax in Europe will have a significant impact on the high-frequency trading taking place there, where superfast computers make millions of trades per second through complicated algorithms in order to take advantage of price differences amounting to fractions of a cent, said Sheppard. “This kills high-frequency trading [in Europe], because it’s a really, really low-margin activity; you’re talking one basis point [differences], but … right now, it’s estimated to be half the volume on U.S. exchanges and 40 percent of European exchanges;” she said.

She didn’t think the end of high-frequency trading was necessarily a bad thing, despite its reputation for adding liquidity to the market. Sheppard said such practices only bring the illusion of liquidity, because as soon as the market turns even “a little tick down,” the computers are set to automatically pull money out of the market, taking with it their liquidity.

But the biggest impact of a financial transactions tax would be changing people’s minds about what is and isn’t possible when it comes to financial regulations, Sheppard said. European policy leaders have even been talking about making credit default swaps illegal. Europe is not the only region that will have to face these kinds of issues with exotic financial products, and others are watching it to see what does and doesn’t work, she said.

“What is happening in Europe is exerting a little more influence on this kind of stuff than people here [in the U.S.] would think they were able to do,” Sheppard said. “It has interesting consequences for how everyone is thinking.”

Obstacles to the tax

One complication that could unwind the whole thing: A small corner of the Greater London area, called The City of London, operates outside of many regulatory jurisdictions, technically, and is effectively, “a self-governing banking haven within the United Kingdom,” allowing firms all over the world to skirt certain rules that they find inconvenient, she said.

In the United States, if one has a margin account with securities in a standard agreement with a broker, that broker can take those securities and use them as collateral in its own business dealings, but it can only be done once, Sheppard said. In the London haven, however, this can be done over and over again with no restriction, “so you can have churning of collateral,” an activity that Sheppard said was a contributing factor to the financial crisis. “The numbers show through the collateral that collateral was so endlessly churned when people were doing their [repurchase/resale agreements] through London, that this batch of existing collateral was used to back up somewhere between 4- to 10-times its value,” she said.

While this jurisdictional quirk may have contributed to the crisis, it also means that financial firms all over the world want to do business there—so an EU-wide financial transactions tax would significantly impact London, she said. About 70 percent of the estimated revenues from this tax would come from the UK alone. UK Prime Minister David Cameron has already vowed to fight the tax, and because the EU requires unanimity between all its member states in order to pass an EU-wide tax, the UK could effectively block it, Sheppard said.

Alternatives to an EU-wide tax

But there is nothing to stop individual member states from setting up taxes of their own, she said, adding that French President Nicolas Sarkozy announced in January that the tax would take effect in France in August, regardless of what the rest of the EU does. Sheppard predicts that such a move would cause firms to flock to London to avoid the tax.

“You would almost be saying to your own banks, ‘we’re putting on the financial transaction tax here, so if you want to do this stuff [such as risky financial maneuvers], then you can do it in London and let them bail you out,’” she said. “And [the UK] won’t cotton to that, because they’ve got problems of their own there too.”

Sheppard said this means that the UK—fearing instability but still aware of the revenue opportunities as firms rush to London—may end up passing its own financial transactions tax in response. The webcast recording of the Taxation of Financial Instruments and Transactions Conference is available through the FAE online. Visit nysscpa.org and select “Online CPE: Webinars & Webcasts” on the homepage, under the Continuing Education category.
State board supports FAF plan, has concerns over monitoring

By AMI OLSON
Trusted Professional Staff

T he New York State Board for Public Accountancy voted on Jan. 18 to rec-ommend that the Board of Regents submit a comment letter to the Financial Accounting Foundation, supporting the FAF’s Plan to Establish the Private Company Standards Improvement Council. The vote was 13-1-1, with Robert L. Goldfarb (who joined the board in January) opposing, and Priscilla Z. Wightman abstaining.

The state board initially discussed submitting a comment letter at its Nov. 16 meeting, expressing overall support of the FAF’s proposal to establish a separate PCSIC that would be charged with tailoring modifications and exemptions to U.S. Generally Accepted Accounting Principles in order to better suit private companies, and would operate under the Financial Accounting Standards Board. The accountancy board voted to recommend that the Board of Regents “write a letter in support of the FAF plan, which would maintain the FASB as the sole standards setter for both public and private entities and establish the PCSIC to address the needs of private entities,” according to the letter the board voted to send to the Board of Regents.

The board suggested that the FAF maintain continuous oversight of the PCSIC’s progress and commit to periodic monitoring, not just an assessment after the first three years, as the FAF proposed.

On the heels of a letter issued by the National Association of State Boards of Accountancy, supporting the FAF’s proposal, the state board, at its November meeting, aired concerns with both the FAF and the blue-ribbon panel’s versions, ultimately voting unanimously to support the FAF’s decision, with some modifications.

Both the NYSSCPA and the AICPA have expressed support of the blue-ribbon panel’s recommendation of separate standards setters for public and private companies. In a comment letter to the FAF dated Dec. 12, NYSSCPA President Richard E. Piluso said the board “does not support such a structure” that would require that recommended private company standards changes be ratified by the FASB, and requested that the FAF implement the blue-ribbon panel’s original recommendation for a separate standards-setting body for private companies.

At the November meeting, Katharine K. Doran highlighted the crux of NASBA’s letter, which underlines its support of the FAF’s decision to create a PCSIC governed by the FASB. “The most important part of this: ‘[NASBA] supports the conclusions of the FAF as exposed in its Plan to Establish the Private Company Standards Improvement Council, and’—that is also a very important part—supports and intends to monitor the accountability measures contained therein, the ensure the improvement council will accomplish its objectives,’ Doran said, reading from the NASBA letter.

She summarized the two primary and conflicting schools of thought surrounding the issue. “So, NASBA has offered its support of the FAF’s plan to establish a PCSIC. In the meantime … the AICPA council voted overwhelmingly to send a strong message to the FAF: Adopt the blue-ribbon panel recommendations for an independent board,” Doran said.

Richard D. Isserman, who also serves as a NASBA director-at-large, vocally supported NASBA’s position. “This document has, I think, presented the best position for the United States,” said Isserman of the FAF proposal. “Why should the split be public–private? The split in the international group is not public–private; there’s only one standards setter [and] they have … voluntary [standards] for small and medium-sized companies to use. We would be at a significant disadvantage as a country if we had two standards setters where … [other countries] were able to deal with it with one [standard].”

Isserman’s term on the state board expired on Feb. 28.

Henry J. Krostich, who was initially in favor of the blue-ribbon panel’s recommendations, said he would be willing to support the FAF’s new proposal if there was a more defined “plan B.”

“What happens if the small business council fails? If we knew there was a plan B, and what that plan B was, I would say, alright, I’m willing to give it two to three more years and support the NASBA position,” he said. “That’s the critical issue: What happens, and has anybody discussed what happens two to three years down the road if it doesn’t work?”

— Henry J. Krostich

State board reviews minor changes to mobility regulations

By AMI OLSON
Trusted Professional Staff

T he New York State Board for Public Accountancy, at its Jan. 18 meeting, reviewed two minor revisions to the emergency regulations governing the mobility law that became effective on Nov. 15.

The new mobility law authorizes out-of-state licensed CPAs to provide compilation or attest services in New York through a New York-registered public accounting firm under a practice privilege—a system that replaced the nearly identical temporary practice permit system previously in place.

Acting Executive Secretary Mary Beth Nelligan-Goodman, who assumed the temporary role after Daniel J. Dustin’s resignation in December, explained the two amendments to the board at the Jan. 18 meeting:

• In a sentence defining the New York State Education Department’s authority to grant practice privilege to practitioners deemed to have substantially equivalent education, examination and experience requirements for certification or licensure, the word “verified” was replaced with the word “determined.”

• Language was changed in a phrase that could have been misinterpretted to mean that anyone practicing in New York under the mobility law would be subject to a $10 fee. The line, in paragraph 2 of subsection d of section 70.8 of the Regulations of the Commissioner of Education, was changed to clarify that the $10 practitioner registration fee would only apply to those CPAs whose principal place of business is in New York state—not to practitioners working under practice privilege in New York. Nelligan-Goodman explained that the new law “was not intended to be a rev- enue maker,” and that this change was also consistent with the previous temporary practice permit law.

Neither change constitutes substan-tial or contextual changes, and the Board of Regents approved the amendments in January, which began another 30-day public comment period, Nelligan-Goodman said. No comments were received during the 30-day public comment period in the fall, which was opened after the Board of Regents accepted the initial emergency mobility regulations.

The Board of Regents is expected to take final action to make the regulations permanent at its March 19–20 meeting.

State board announces appointments, departures

T he New York State Board for Public Accountancy announced three new members at its Nov. 16 meeting. John J. Kearney and Ernest P. Smith attended their first meeting in November: Robert L. Goldfarb’s first meeting was Jan. 18. The new members’ terms will end in 2016.

Lydia M. Washington, who joined the board in 2001, was recognized for her service with a plaque at the Nov. 16 meeting. Her term officially ended Nov. 30.

Richard D. Isserman’s term ended Feb. 28. His last meeting was Jan. 18, during which he was recognized for his 10 years of service on the board.

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aolson@nysscpa.org

Brief

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IN MEMORIAM

The Society salutes the following members who have passed, but will live on in our memory.

Information is presented here according to what is on file in the Society’s database. The names below are of those previously unreported members whose profiles were updated with their passing between fall 2011 and Feb. 1, 2012.

Joseph A. Bennett, Partner, Bennett & Co., CPAs, Dansville, N.Y. Born in 1955. Member of the Society since 1990. Member of the Rochester Chapter.

Kathryn R. Bennett, Partner, Bennett & Co., CPAs, Dansville, N.Y. Born in 1958. Member of the Society since 1984. Member of the Rochester Chapter.

John Burke, Partner, Dermody, Burke & Brown, CPAs, LLC, Syracuse, N.Y. Resided in Syracuse, N.Y. Born in 1923. Member of the Society since 1956. Member of the Syracuse Chapter. Served on the Board of Directors (1979–1982); the Medium-Sized Firms Committee (1979–1981); and the Syracuse Chapter Executive Board (1984–1985).


Nancy Dolce, Partner, Dolce & Dolce, CPAs, P.C., Buffalo, N.Y. Resided in Buffalo, N.Y. Born in 1952. Member of the Society since 1963.


Tiffany R. Gilchrist, Audit Manager, Satty, Levine & Ciaccio, CPAs, P.C., Jericho, N.Y. Resided in Roosevelt, N.Y. Born in 1960. Member of the Society since 2009. Member of the Nassau Chapter.

Peter Gold, Managing Partner, ERE LLP, Valhalla, N.Y. Resided in Scarsdale, N.Y. Born in 1936. Member of the Society since 1963. Member of the Westchester Chapter.

John T. Kelley, Resided in Syracuse, N.Y. Born in 1900. Member of the Syracuse Chapter.

Eugene F. Lilly, Retired, East Rochester, N.Y. Born in 1932. Member of the Society since 1961. Member of the Rochester Chapter.


Hyman Messing, Retired, New York, N.Y. Born in 1914. Member of the Society since 1960. Member of the Nassau Chapter.

George M. Morgenstern, Retired, Boynton Beach, Fla. Born in 1928. Member of the Society since 1955.

James R. Perry, Retired, Webster, N.Y. Born in 1922. Member of the Society since 1957. Member of the Rochester Chapter.

Irving Schaffer, Retired, New York, N.Y. Born in 1922. Member of the Society since 1977. Member of the Manhattan/Bronx Chapter.

Gerald L. Schwab, Retired, Bronx, N.Y. Born in 1921. Member of the Society since 1953. Member of the Manhattan/Bronx Chapter.

Julian M. Smerling, Retired, Stamford, Conn. Born in 1928. Member of the Society since 1957. Member of the Nassau Chapter.

FAE 2012 CPE Webcast Series

Federal Tax Update Video Webcasts:
Nichols’ Notes

2012 Webcast Series Dates:
First Quarter: Friday, March 9, 2012 (Course Code: 35111224)
Second Quarter: Friday, June 8, 2012 (35111224)
Third Quarter: Friday, September 21, 2012 (35111325)
Fourth Quarter: Thursday, December 13, 2012 (35111326)

Each webcast in this series will be broadcast live from 9:30–11:30 a.m. on the dates listed above.

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More than 1,100 attend Town Hall meetings

By CHRIS GAETANO
Trusted Professional Staff

More than 1,100 CPAs across the state participated last year in the NYSSCPA’s Annual Town Hall meetings, where members had an opportunity to interact with Society leadership in a public forum and learn about those issues facing the profession, as well as earn two ethics and one specialized knowledge CPE credits.

“It was a real thrill to be able to visit the different chapter locations and spend time in their communities, and have a chance to touch base with the individuals that I knew as well as meet new people,” said NYSSCPA President-elect Gail M. Kinsella, a Syracuse Chapter member, of the meetings. “The chapters I visited were most hospitable and the members were very engaged.”

This year’s meetings provided members with updates from the Society as well as discussion about issues facing the profession as a whole. This was a change in the format of the series of annual town hall meetings, which would previously focus primarily on Society updates.

“Members seemed to appreciate the new format of the Town Hall meetings, which included presentations relating to national issues currently facing the profession, and some of the expected results, as well as the presentation of legislative issues currently and in the future in New York state,” said NYSSCPA President Richard E. Piluso. “This was different than past Town Hall meetings, and the feedback we received from members was positive.”

NYSSCPA Executive Director Joanne S. Barry addressed several of those topics during the 15 town hall meetings, which began in the Adirondack Chapter on Sept. 20, 2011 and finished up at the Nassau Chapter’s Jan. 15 meeting. Each Town Hall meeting consisted of a New York State Regulatory Update, presented by Barry, as well as a shared presentation by Piluso, a Manhattan/Bronx Chapter member, and Kinsella on the state of the CPA industry in a New York, national and global context.

Range of topics covered

Barry highlighted the Society’s efforts toward defending the profession from issues that may threaten those who practice it—such as proposed state legislation dubbed the Institutional Investor Recovery Act, which “would have been devastating to the CPA profession, their clients, and most importantly the business climate in New York State,” Barry said. The bill would have created an extremely litigious business climate that would force companies to choose to locate in other states by expanding the use of the state’s existing Martin Act, but was never brought to the floor of either the House or the Senate for a vote. The Martin Act already allows the Attorney General to investigate securities fraud, but the abandoned IIRA would have allowed investors such as public pension plans to sue the CPAs who gave clean audit opinions to companies that are later accused of fraud, regardless of intent. In addition, Barry discussed:

• The impact of the mobility law, signed Aug. 17, 2011, which allows New York CPAs to practice in other states and allows out-of-state CPAs to practice in New York.

• The Society’s advocacy in the wake of Hurricane Irene, which involved successfully using its channels with the state Department of Taxation and Finance to extend filing deadlines and bring relief to taxpayers not in federally defined disaster areas. Barry cited the relationship building that the NYSSCPA engaged on a regular basis as a factor in its success.

• The impact of corporate failures, which Barry said was all instituted in response to member feedback.

• The numerous comment letters that have been drafted by members on everything from proposed financial accounting standards to IRS regulations to draft legislation on the state and federal government levels. She strongly encouraged her audience to join a Society committee and help author them, saying that “the reason we’re so successful in this comment letter process is because we have such diverse people in our committees.” The NYSSCPA submitted nearly 30 letters in 2011.

• A new program where members could earn CPE credits towards their state licensing requirements while learning about issues facing the profession.

• The introduction of a free eight-hour industry-centered CPE event in December attended by more than 160 members statewide, as well as three $55 webinar series and access to $6,000 worth of publications from tax law research firm CCH, which Barry said was all instituted in response to member feedback.

Suffolk Chapter President Harold L. Delters addresses members in attendance at the chapter’s Town Hall meeting.

NYSSCPA President-elect Gail M. Kinsella speaks to members of the Manhattan/Bronx Chapter during a recent Town Hall meeting.

See Town Hall, on page 24
FAE EVENTS and CPE OFFERINGS

BUFFALO

Fraud Detection and Prevention for the Not-for-Profit Sector
When: March 16, 8:30 a.m.–12 p.m. (RSVP by March 9)
Where: Meals on Wheels Community Learning Center, 100 James E. Casey Drive, Buffalo
Cost: Free
Contact: Gail Calisto (716-887-2776 or gail.calisto@uwbec.org) to register.
This event is sponsored by the United Way of Buffalo & Erie County Agency’s Executives Association and the Buffalo Chapter.

Chapter Annual Summer Symposium
When: July 24 and July 25, 8:30 a.m.–5 p.m.
Where: Millennium Airport Hotel, 2040 Walden Ave., Buffalo
Contact: Gregory Altman (GAltman@somerset1.com)

MANHATTAN/BRONX

Economic Outlook Update: Regional & National
When: March 1, 5:30–7:30 p.m. (check-in 5–5:30 p.m.)
Where: Deutsche Bank, 60 Wall St., NYC
Cost: $20 for members; $25 for nonmembers (attendees must pre-register, no walk-ins)
CPE: 2 (specialized knowledge and applications)
Course Code: 29150213
Check-in at the lobby security desk – Photo ID is required.

Understanding Investment Risk As It Relates to 2012 and the Manhattan/Bronx Chapter Elections
When: May 2, 6–8 p.m. (registration 5:30–6 p.m.)
Where: Morgan Stanley, 41st Floor Auditorium, 1585 Broadway, NYC
Cost: $20 for members; $25 for nonmembers (attendees must pre-register, no walk-ins)
CPE: 2 (specialized knowledge and applications)
Course Code: 29150213
Check-in at the lobby security desk – Photo ID is required.

MID HUDSON

Chapter Annual Golf Tournament
When: May 14
Where: Wiltrwyck Golf Club, 404 Steward Lane, Kingston
Contact: mschain@schainandcompany.com

NASSAU

Annual Spring Joint Nassau/Suffolk Chapter Meeting
When: March 22, 6–8:30 p.m. (RSVP by March 18)
Where: Crest Hollow Country Club, 8325 Jericho Turnpike, Woodbury
Cost: $50 in advance; $60 walk-in at door

Chapter 59th Annual Installation Dinner Dance
When: March 3, 6:30 p.m.
Where: Crest Hollow Country Club, 8325 Jericho Turnpike, Woodbury
Cost: $90 per person

SUFFOLK

Annual Spring Joint Nassau/Suffolk Chapter Meeting
When: March 22, 6–8:30 p.m. (RSVP by March 18)
Where: Crest Hollow Country Club, 8325 Jericho Turnpike, Woodbury
Cost: $50 in advance; $60 walk-in at door

FYI: Bankers and Other Credit Grantors Committee.
With changes in FASB standards coming quarterly, monthly, weekly, and even daily, it can be difficult to stay on top of them all. With Renee's Roundtable, a web-only quarterly update series, you can keep current with the numerous changes made by the FASB and other standards-setting organizations. This series is designed for accountants in public practice and industry, for practitioners, educators, or anyone else who wants to remain up-to-date on the latest issued and proposed relevant accounting and financial reporting requirements.

All four of the webcasts in this series are scheduled toward the end of each quarter in order to include any last-minute updates, modifications, and new information about that quarter's FASB changes.

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FAE 2012 CPE Webcast Series

2012 Webcast Series Dates:
First Quarter: Friday, March 23, 2012 (Course Code: 35111214)
Second Quarter: Friday, June 22, 2012 (35111115)
Third Quarter: Friday, September 28, 2012 (35111316)
Fourth Quarter: Friday, December 14, 2012 (35111317)

Each webcast in this series will be broadcast live from 1:00–3:00 p.m. on the dates listed above.

FASB Accounting Update Video Webcasts: Renee’s Roundtable

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What advice do you have for new CPAs working their first busy season?

By GEORGE A. BEDA
Westchester Chapter

The advice that I have isn’t so much for the new CPAs, but for the firms that employ them. My first busy season was in 1977, when I was fresh out of NYU, and I remember how much of a culture shock it was, especially in terms of the time commitment that tax season demands. One of the most important things for me when accessing help to people in my firm who could show me the ropes.

Firms can help their younger professionals adjust to the rigors of the tax season, as well as the rest of their careers, by developing a mentoring system. It doesn’t need to be formal, but it’s important that new employees have a go-to colleague they can reach out to with questions and talk to about the issues they face. At the same time, it’s incumbent upon management to be proactive and make people feel comfortable. It’s one thing to say that your door is always open, but it’s another to walk out your door and ask how things are going. Managers should avoid piling work on a new person’s desk, say they’ll be “just down the hall,” and walk away. It’s important to at least show new CPAs what the final product is supposed to look like and how they can get from point A to point B.

Management can also help new staff during the busy season by holding an orientation to cover basic things like navigating the tax software and the company’s presentation styles.

For young professionals coming out of years of schooling, starting a new job can feel like they’re learning everything from the ground up, and in some respects they are. It becomes the responsibility of management to help them do so successfully.

gorgecpa1@verizon.net

By EILEEN F. HAMLIN
Utica Chapter

The very top priority for someone going through their first busy season should be to ask questions within the firm. While the best experience you’ll get is hands on, it will make your season go a lot more smoothly if you ask questions of your more experienced peers. It will make things easier for management, as well. As a supervisor, I’d rather hear a fresh-faced young CPA ask 20 different questions and get set on the right path than feel intimidated and not ask anything. That would just create more work for everyone, as we go back and forth checking work and fixing errors, with egos getting bruised all along the way.

Another important thing to remember as you embark on your first tax season is that you do have a life outside work. You need to remember to keep some sort of outlet for yourself. Busy season will take up the bulk of your time, but it’s also important to do other things, whether it’s finding time to go outside or to socialize with friends.

My outlet right now is my daughter. She’s 6, and so my social life tends to be her social life, though I’ve always enjoyed running and working out, too. Regardless of what your method will be, it’s always important to make sure that you have a way to release your stress.

EileenHamlin@msn.com

By WILLIAM F. BERARDI
Mid Hudson Chapter

After more than 30 years as a CPA, there are many things I wish I’d known during my first busy season that I hope CPAs who are just starting their careers can learn from. First, CPA or not, the advice I’d give to any young person is to remember to take care of yourself. Get to the gym first thing in the morning, and be sure to drink lots of water. You’ll be stronger and feel better, which will keep you healthy and make it easier to endure all the stress you’ll no doubt face this season. You’re going to be putting in some long hours in the office, so it’s also important to remember to take mental breaks regularly. Try to take a walk in the middle of the day—not down the halls but outside, no matter what the weather conditions are. It will provide a good breather.

And as you get into your first busy season and all of the stress it can bring, remember to do some things just for yourself. By making sure you’re in a good state of mind and body, this will make it easier to serve your clients as well.

bberardi@hvc.rr.com

By MICHAEL E. SWENSEN
Mid Hudson Chapter

Most of the things I can suggest to new CPAs have less to do with work itself and more to do with the things going on around them. The first is to remember to get enough sleep. Don’t overlook things during the busy season. CPAs right out of school might be used to happy hours and hanging out with friends late at night—some people may be able to handle that, but on top of the demands of the tax season, most won’t. So remember to manage your time outside of work and to get enough rest. Conversely, try not to overdo it at work either. Until it’s the “home stretch” of the season, try to leave at a reasonable hour on Friday—since you’re going to be coming back in on Saturday. You’ll need that downtime to unwind and decompress, especially if you’ve been working late nights the preceding four days.

Also, try to get some exercise. It doesn’t have to be a lot and it doesn’t have to be strenuous. Some people, for example, take up yoga or tai chi. Anything that gets you moving, even if it’s just walking on a treadmill, can help with the fact that you’ll be sitting at a desk all day long. Of course, it’s important to eat right, which isn’t always easy during tax season. It’s easy to eat a lot of fast food, but try to get some healthy stuff in you and keep away from sugary drinks.

Finally I recommend getting a flu shot, because if you’ve ignored the other advice I’ve given and you don’t end up getting enough sleep, don’t eat right and let yourself get stressed out, you may end up with a nasty virus and you could infect people working around you, too. A flu shot is not that expensive, and it is worth the cost to ensure a successful busy season.

michaels@lyacpas.com
Former Westchester President George Mandel dies

By CHRISTINA DOKA
Trusted Professional Staff

For many of his 11 years on the NYSSCPA’s Employee Benefits Committee, Westchester Chapter Past President George Mandel served as cochair of the committee’s annual conference. But last March, with his health declining, Mandel called his conference cochair, Leon J. Gutmann, to tell him that he might not be able to attend the meetings or help out at the conference in May.

“I was more concerned about his health, but he was more concerned about the conference,” Gutmann remembered.

Friends and family said this fierce work ethic and dedication to his profession, community, and most of all, his family, propelled Mandel through life. He died on Jan. 8. Mandel was 94.

Professional pride ran deep

Born in 1917 in Williamsburg, Brooklyn, to parents who emigrated from Russia, Mandel graduated from high school at 15. He worked during the day and attended Baruch College in the evening for eight years to complete his accounting degree. Around that time, he met his wife Abigail, with whom he had two children, four grandchildren, and three great-grandchildren. The couple had been married for 71 years when Mandel died.

“Abigail and George were a team. If you got George, you got Abigail,” said former Westchester Chapter President Theodore L. Peluso (1988-89).

In 1951, Mandel joined the NYSSCPA. He served as Westchester Chapter president from 1980 to 1981 and saw the role as a way to “mobilize the chapter to advance the profession,” Peluso said.

“He used to say to me… ‘you work as long as you can, because that gives you meaning to the rest of the world.’”

At 64, Mandel retired from BDO Seidman, but he didn’t stop working—he got his insurance license and became involved in pension planning. He strived for precision and accuracy in his work; he never cut corners, said family friend Robert Kaplan. When clients asked Mandel about his services as a CPA and how they differed from the services of an accountant, he would draw an analogy between the services provided by a general physician and the higher rates that accompany the superior care provided by a specialist.

He emphasized being a professional, and the high standard that came with the title, Peluso said. “The chapter [service], the writing of articles—that’s the kind of stuff you do as a professional,” Peluso added. Those things contributed to the professional prestige that sets CPAs apart, and of which Mandel was particularly proud.

Mandel continued his second career until March 2011 when, after a two-week period of physical therapy rehabilitation, “he never worked again, and that was very disheartening to him,” said Mandel’s daughter, Louise Mandelman.

A high-quality life

Mandel also volunteered with The Workmen’s Circle/Arbeter Ring, a national, secular Jewish organization. Mandel chaired the board that ran The Workmen’s Circle children’s summer camp and adult resort for many years, and helped to found the Westchester Jewish Council and The Workmen’s Circle Jacob T. Zuckerman Fund, according to Mandelman.

He was “involved in all parts of the organization,” said Kaplan, also a former chair of The Workmen’s Circle. Mandel helped establish the organization’s annual Westchester Yiddish Music and Theater Festival 37 years ago and would often invite friends and community members back to his home after the festival each year. Last August, The Workmen’s Circle presented Mandel with an award for his dedicated service.

In his eulogy for Mandel, Kaplan called him “a leading figure in the Westchester Jewish community.”

But nothing came before family, which was “his first love and priority,” Mandelman wrote in her eulogy for her father. Mandel’s four grandchildren all spoke at his funeral. They cited lessons that he had taught them while growing up: the importance of family and the ability to laugh at oneself, and to always do as much as possible for loved ones.

“Everybody said he was a mentor to younger people,” said Abigail Mandel of her husband. “People remember him for that.”

Mandel’s memorial service was held on Jan. 11, and the family asked that contributions be made to The Workmen’s Circle to support Yiddish culture.

“He once said to me, ‘You can tell the quality of a man’s life by how many people are at the funeral. If you have a lot of people at the funeral, you can tell what you accomplished,’” Peluso recalled. “So when I was walking in, I said to myself, ‘I hope there are a lot of people here.’”

Peluso was not disappointed. “The funeral was jam-packed,” he said.

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Interested members should email The Trusted Professional Editor, Ami Olson, at aolson@nysscpa.org for more information. 
Chapter will continue CPE series

By ROMAN ZAUROVICH
Manhattan/Bronx Chapter Past President

The Manhattan/Bronx Chapter provides 20 to 30 different continuing professional education courses every year. In 2011, we offered a series of related events about retirement planning and witnessed a terrific turnout for each. The chapter decided to structure these events as a series to allow more in-depth exploration of a particular topic. In this format, members could choose to attend all or some of the events, depending on their needs—an option that doesn’t exist when a topic is addressed only during a single session.

This year, the chapter’s Executive Board plans to continue the CPE series format, and will offer events on soft skills and financial forensics. The soft skills series will address behavioral interviews, individual career development plans and enhancement of management and leadership skills. The financial forensic series will address lost profits, intellectual property disputes and industry-specific financial forensics.

We welcome suggestions of other topics for future series, which can be emailed to me at the address below or to Manhattan/Bronx Chapter President Gina Goodenow at ggnaggoodenow@gmail.com.

Sick cautioned that the IRS visits might also look at the preparer’s security procedures, particularly computer security. Those expecting a visit from the IRS should review their policies regarding password and firewall use, and check to see how well protected they are against computer viruses, malware, and other harmful invaders. Sick also said that the IRS will want to know how client data are collected for return preparation, so a review of privacy procedures may also be in order. The IRS will also look at physical security measures, so practitioners should make sure file cabinets are properly secured and that personal client information isn’t visible to anyone who walks into the office. It might also be prudent to account for who has the keys to the office, Sick added.

The IRS looks mainly on practitioners who filed a W2 for the individual whose return is being prepared, Sick suggested. The IRS will look at the practitioner’s Electronic Filing Identification Number, which is assigned by the IRS to preparers once they are accepted into e-file program, and whether anyone else in the office filed returned under that same EFIN, Sick said. If so, the IRS will want to know whether that person has a Paid Tax Return Preparer Number, which identifies individual return preparers in the system. Finally, agents will look to make sure their returns were properly signed and that the preparer return information was included in the signature block.

For example, “the last thing you want to do is to get the same system a big bank would, but you need to take some type of precautions,” he said. “So a big way you could have issues with that is if someone physically walks in and sees files they shouldn’t see—if Client B walks in, but Client A’s file is still open.”
Student ‘Explorers’ venture into world of accounting

By CHRISTINA DOKA
Trusted Professional Staff

When Rochester Chapter member Kenneth O. Hall presented “The Anatomy of an Annual Report,” a detailed look into his own company’s summary, it was no ordinary speech at a conference or committee meeting. Instead, Hall was giving back to the program that led to his first accounting job out of college by speaking to a group of 15 high school students participating in the fall 2011 Accounting Explorer Program.

The nationwide Explorer program, established by the Learning for Life organization in 1998, partners with businesses to connect high school students with a variety of career fields through interactive seminars, to “provide positive and meaningful real-world career experiences and leadership development opportunities for all teenagers and young adults in their chosen field of interest,” according to the program’s website.

Through the Explorer program, local businesses or organizations can to establish a “post” to introduce area students to the career field that business specializes in—from aviation communications and social services. The Rochester-area students of the Explorer Post 1040, which was dedicated to business and accounting and sponsored by EFP Rotenberg LLP, met every Wednesday for 90 minutes during five weeks from October through December 2011.

As a former Explorer himself, Hall said that after studying accounting in college, he went back to work with the same firm that sponsored his Explorer Post. In turn, he reconnected with the program as a speaker.

“I enjoy sharing personally what a great career accounting has been for me,” he said. “I think that’s kind of fun to share with them what the rewards might be if you’re moderately successful.”

While one student asked a very technical and analytical question, other students had more personal inquiries, including how much money Hall makes per year. It’s typical, Hall said, to find both types of students in the Explorer program—those already considering a career or college major in accounting, and those who are simply curious about the field.

“The goal is to expose them to a number of different disciplines within the field of accounting,” Hall said. “There’s clearly an emphasis on becoming a CPA.”

The meetings were held in the company’s offices, where local professionals spoke to the students and fielded questions about financial topics, including fraud investigations, government compliance and managerial accounting.

“Most presenters had a PowerPoint. There were handouts, freebies, calculators, cookies, pizza,” said EFP Rotenberg LLP Manager and Rochester Chapter member Mary T. Murphy, who organized this year’s seminar.

An Interactive Approach

During his presentation, Hall used actual copies of his company’s annual report to explain each section and related SEC requirements. To teach the Explorers about the importance of keeping their own personal balance sheets, he tried to “correlate that to high school students,” and asked about their own personal bank accounts, cars or Pokemon trading cards.

“I think the trick is sometimes you have to get them going, and once you get them opened up, then they get a little more courageous to get a back-and-forth dialogue,” Hall explained. “But they do ask some pretty good questions, and it’s an indicator of how interested they are in the career of accounting.”

Rochester Chapter member George J. Scharr said that posing questions to the Explorers was a technique that worked for him during his presentation. “If you ask them questions about their own goals and ambitions and why they’re attending the presentation and what they hope to get out of it,” this method works even better, Scharr said.

Although the accounting seminar has ended, Murphy said about 10 Explorers have signed up to visit Flower City Printing Inc., where Scharr serves as CFO. They will listen to an introduction about the printing business and then take a tour of the plant, Scharr said.

“They need to see some examples of what the real world is like, from people outside their usual span of importance,” he explained.

A Lasting Impact

As the economy improves, students who join the profession will have an array of options and job offers, Hall said. And students in the Explorer program can get ahead of the game by gathering information now, Murphy said.

The 2011 group of Explorers was “very attuned to wanting to know more,” she said. They asked questions about financial hardships currently facing the country, such as, “Is it the economy?” “Is it what they’re seeing other people struggle with?”

Hall predicted that more than half will probably end up majoring in accounting in college.

“Ultimately I hire into my company … maybe 10 people a year because of growth and promotions,” Hall said. “I really look forward to the day when somebody that I touched in an Explorer Post shows up for a job.”

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“The goal is to expose them to a number of different disciplines within the field of accounting.”

– Kenneth O. Hall
Rochester Chapter

Image 152x203 to 720x843
Tax nexus issues on the rise as state coffers dry up

By CHRIS GAETANO

Sales tax revenues have shrunk considerably since the economic crisis, as businesses make less money and individuals buy fewer items, “so the [state] coffers are getting emptied,” said David Seiden, a partner at Citrin Cooperman and a speaker at a two-hour continuing professional education seminar hosted by the Westchester Chapter on Jan. 20. “That lost revenue from sales taxes on all this Internet business, coupled with the bad economy, has made this a very angry, very hungry state environment.”

Yet governments are hesitant to face the political fallout that would come from raising taxes. What’s a cash-strapped state to do?

For many states, Internet sales are the key. When state governments look at the Internet and all of the sales transactions conducted through it, Seiden said, they see billions of dollars in potential tax revenue that could be flowing to the state. But if a website exists without a physical presence, how exactly can a state impose taxes, Seiden asked? “I think a lot of companies are very surprised how an unrelated third party providing services for them can cause the business to have nexus in a state they didn’t even step foot in.”

— David Seiden, partner at Citrin Cooperman

“[States] are trying to put a round peg through a square hole in trying to interpret these antiquated state tax laws to apply against the new economy,” Seiden said. “What’s happening is, they are having a difficult time doing that and they are taking huge liberties in interpreting these old laws and how they would apply to this new economy.”

Efforts by states to try and settle things have so far not been successful. For example, Ohio, Washington and Connecticut tried to establish bright-line tests that use metrics such as revenue, payroll or property within the state to determine whether there is nexus. But Seiden said that these solutions have proven to be problematic in their own ways—in certain cases, even shipping a certain number of goods over a specified amount might trigger nexus rules.

Seiden said that it will ultimately take either federal legislation or a Supreme Court case to settle the issues related to state tax nexus, but that it’s been more than 50 years since Congress passed any substantial legislation surrounding nexus. Efforts to update the law over the years—such as with the Main Street Fairness Act, which so far has a total of five Senate co-sponsors—have failed to gain traction.

The Supreme Court hasn’t done much better, Seiden said: Many cases have gone before the court that could have settled the ambiguities relating to state tax nexus, such as Feeney v. Jefferies or KFC Corporation v. Iowa Department of Revenue. But each time, the court has declined to hear the case, he said.

Seiden’s presentation was organized by the chapter’s Local Practitioners Committee, which cochair Catherine M. Censullo said was revived in September after a long period of inactivity. It was the revived committee’s second event (it held a labor law seminar in November). The topic was selected after the committee conducted a poll with the help of the Society, to determine chapter members’ interest in potential CPE topics. Censullo said local, state and interstate taxation issues were at the top of the list, and that she could see why members would be interested in topics like state tax nexuses, because her own clients have had to deal with these issues.

“I think that with the current environment in the state arenas, everyone seems to be broke,” she said. “The federal government is looking for money, the states are looking for money and other people might have properties in different states, investments in different states and businesses that go over state lines.”

cgaeano@nysscpa.org
WESTCHESTER

Westchester Chapter: We’re having a great year

By MARK LEEDS
Westchester Chapter President

ow that busy season is fully underway and the chapter is in “hibernation mode,” it is a good time to take a look back and review what the Westchester Chapter has accomplished so far in this chapter year.

The following list reveals just some of our achievements, in no particular order:

• We reinvigorated our Local Practitioners Committee through a fascinating speaker series with experts discussing such varied topics as ethics, social media and local tax updates.
• We formed a new professional alliance with Westchester financial planning and estate planning organizations to explore how to better work together.
• We assembled a comprehensive list of local high school contacts to use in planning our informational visits to the schools, as well as our scholarship and COAP initiatives this spring.
• We hosted an Accounting Career Opportunities night in October, in which nine firms and more than 60 students participated.
• Attendance was sold out for both of our fall tax conferences. (Thanks again to Citibank for their generosity in providing the venue.)
• We continued to provide community outreach through the 2012 tax hotline and our College Financing Night, where experts spoke on the college application and financial aid process.
• We thanked our many sponsors at a special event in January.
• Our Young CPAs continued to grow as they held networking events while also finding time for charitable activities.
• Our Accountants in Industry Committee switched meeting venues without missing a beat and still provided their members (including public accountants and their clients) with quality speakers on important topics.
• More than 100 members, colleagues, clients and guests enjoyed the wonderful day of golf and good company at our Annual Golf Outing in June.
• More than 200 members, colleagues, clients and guests enjoyed a successful evening of renewing professional friendships and starting new ones at our Networking After Hours event in October.
• We strengthened our relationships with the managing partners of local firms through enhanced contact, and by hosting a luncheon with members of the Society leadership.
• We hosted our annual Town Hall event in November where the Society leadership updated more than 70 members on the issues and initiatives facing our profession and our state.

Looking at our accomplishments, it would be easy to say that we’ve done enough and can finish the chapter year on a glide, but that is not the “Westchester way.” Instead, we will continue working toward our mission by offering more programs to furnish members with the tools, programs and events they need (be sure to check out the schedule of speakers for each committee), holding an Estate Planning Conference and participating in charitable activities and outreach to students. (Note that scholarship and COAP applications will be out soon.)

My use of the words “we” and “our” is intentional—none of these events, programs and initiatives would have been successful without the participation of the Westchester Chapter Board Executive Board, committee chairs, community volunteers (Patti Galistinos and Licia Colamussi deserve special recognition), speakers (most of whom received no remuneration) and participants.

Westchester Chapter: We’re having a great year

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Town Hall

Continued from page 16

the economy has affected people’s priorities at work: According to surveys, the No. 1 factor in job satisfaction and top talent retention in 2006 was respect for the company and its mission, Kinsella said. In 2011, with so many economic uncertainties, the No. 1 factor had become salary. She also talked about how new technology has impacted the manner in which CPAs practice their trade, as well as the healthy demand for CPAs that is matching increasing enrollments in accounctancy programs at universities.

“In our conversations this year, it sounded as though we had been able to respond to concerns noted in the meetings last year. We’ll continue to respond in that respect by sharing information with the chapters and continuing to offer value-added activities for the members,” said Kinsella. “We’re also working on a whole host of things in terms of legislative outreach and professional development, and working to help the chapters to become even more vibrant — Gail M. Kinsella, NYSSCPA president-elect

While most other states, he said, follow the Uniform Accountancy Act model mandate that CPAs must be the majority owners, but that non-CPAs can have ownership stake in the firm, Piluso said.

During his presentation, Piluso also discussed:

• The economic outlook for the coming year, both in terms of the world economy and opportunities for businesses in the U.S.
• The progress of the United States’ adoption of International Financial Reporting Standards adoption and the challenges that remain.
• Issues being examined by the Society’s Professional Ethics Committee.

“To watch the webcast and get to hear firsthand what the Society is doing,” said Buffalo Chapter President Franca Trincia of the meetings.

“I found the non-CPA ownership issue most interesting, having started my career with a large firm … that had many ‘directors’ who were not partners but who were compensated in some way to make up for the fact that they did not share in the profits of the firm,” said Staten Island Chapter member Rosemarie Ann Giovinazzo-Barnickel, who also sits on the Board of Directors.

Gina E. Goodenow, president of the Manhattan/Bronx Chapter, drew from her own experiences to explain her support for the measure after her chapter’s Town Hall meeting.

“Being that I was also in the consulting division working for non-CPAs, I think this is a good thing. Times have changed and firms no longer provide only accounting services but [also] IT, forensic and other services, so it is logical to have non-CPA owners,” said Goodenow.

The Society recently hosted a breakfast briefing on the topic of non-CPA firm ownership in New York. To watch the webcast online visit youtube.com/user/theNYSSCPA.

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In-Person Fee: $385 Members; $485 Nonmembers
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Government Accounting and Auditing Conference
Date: Tuesday, May 15
In-Person Course Code: 25144241
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Date: Monday, May 21
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Field of Study: Specialized Knowledge and Applications
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Date: Thursday, June 21
In-Person Course Code: 25137311
Live Webcast Course Code: 35137311
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