Manhattan DA Vance, at AML Conference, says new tech brings new challenges

By CHRIS GAETANO
Trusted Professional Staff

While the rapid pace of technological change has brought new tools to the fingertips of law enforcement, it has also created worrisome roadblocks that New York County District Attorney Cyrus R. Vance Jr., a speaker at the Foundation for Accounting Education’s Anti-Money Laundering Conference on Nov. 28, said have stymied efforts to combat financial crime.

One of the major sources of worry that he pointed to was the development of cryptocurrencies such as bitcoin, due to both their general lack of oversight as well as their largely anonymous nature. “Following the money” is an essential part of many criminal investigations, but this has become more difficult to do as cryptocurrencies rise in popularity.

“What many fail to recognize when it comes to cryptocurrencies is there’s no oversight virtually, unlike established markets where bad behavior is identified and punished,” he said. “Instead, bad actors are often able, with impunity, to use cryptocurrencies in commission of crimes, and it’s very hard to follow the money.”

Zachary Gordon, the chair of the NYSSCPA’s Cannabis Industry Committee and the founder and managing partner of CH3 Ventures LLC, served as the chair of the conference, whose theme was “Navigating the Cannabis Industry.” Sessions included a keynote address by New York Assembly Member Richard N. Gottfried and a presentation by Peter A. Metz on “IRS 280E and How to Manage Your Client’s Tax Burden.”

Karnes noted that there has been a gradual shift from illicit to legal markets, although it is difficult to report reliably on the size of the shift because of the scarcity of credible data. The opportunities for CPA firms will be numerous, he said, explaining that the cannabis business is mostly cash, and the people working in it are often right out of college or otherwise inexperienced.

“The internal control environment is something that will be a big challenge for auditors,” he said. “One of the biggest opportunities for CPA firms is the need to get books ready for an audit.” On the tax preparation side, CPAs can help clients comply with Section 280E of the Tax Code, which disallows credits and deductions for Schedule I drugs, other than costs of goods sold.

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Making choices ... and building a nontraditional career

O n Jan. 18, I was honored to participate in the first Women’s Leadership Forum presented by the NYSSCPA. One of the panels, “The Difficult, Rewarding Search for Work-Life Integration,” focused on the choices that many professionals face when juggling professional and personal obligations. While the choice to raise a family is only one aspect of an individual’s personal life, whether male or female, it is one of the more significant decisions—in particular, for women, as studies have shown that women more often than not take on greater responsibility for raising children. When professional women have children, they need to make some tough decisions, including whether to take only their allotted maternity leave or a longer period of time off. Those who take several years off often find the transition back to be less than smooth. Some find that their options are more limited than when they started out. Fortunately, women today have more options than when I faced that conundrum, in large part due to the advances in technology that help us stay connected.

I am one of many women in my generation who decided to take some time off from the accounting profession to raise a family. While the transition back into the workforce was definitely challenging, it was the right decision for me. And it is important to recognize that there is not a one-size-fits-all decision—each individual makes his or her own decision to fit the circumstance.

My first job as a CPA was at Arthur Andersen, and after five years in the auditing practice, I decided to take a year off from work. Well, about five years later, after focusing on being a full-time mom, I decided it was time to get back into the workforce; however, I wasn’t sure how to go about that. Fortunately, through my network of contacts, I was hired by a small, local accounting firm, and from there eventually landed a job at the AICPA and then at BDO, the firm I work for today. Networking can be a wonderful thing.

I have been at BDO for more than 14 years, in the firm’s National Assurance Practice, focusing on the auditing standards of the Public Company Accounting Oversight Board (PCAOB), the AICPA Auditing Standards Board (ASB) and the International Auditing and Assurance Standards Board (IAASB).

When I began my career at BDO, I happened to meet Gina Goodenow, a more junior CPA working in my department, and we began talking about her involvement in the NYSSCPA; she told me about the wonderful events she attended at the Society. As a result of those discussions and Gina’s enthusiasm, I decided to join the organization. (Though I didn’t recognize it at the time, I suppose this was a form of reverse mentoring—and another topic discussed at the Women’s Leadership Forum.) Gina and I are now very good friends, and I have benefited enormously from my membership in the Society, making wonderful connections and honing my leadership and communication skills. The Society has meant so much to me that I decided to pursue leadership positions, leading to my presidency.

Today, thanks to technology and a cultural shift at many CPA firms, there are many opportunities for both women and men to work remotely and to enter into flexible work arrangements when they become parents. For women who do decide to leave the profession for a year or more to raise a family, there are more ways to return. Career re-entry programs such as Relaunch offer boot camps, coaching and placements with companies, including financial services firms. The NYSSCPA’s Career Center and Mentor Match Program are also wonderful resources.

As I look back over my career, with an eye toward retirement later this year, I am proud of my work—and at the same time, grateful for the help I received in transitioning back to the profession after taking time out to focus on my family and children. I would have to attribute much of my success to my network of professionals—both women and men. I consider my current term as NYSSCPA president to be a testament to the many friends and colleagues who have helped me grow professionally and personally. president@nysscpa.org

FAE Board of Trustees nominations due by Feb. 22

I f you are interested in serving on the Foundation for Accounting Education (FAE) Board of Trustees, now is the time to submit your nomination. The FAE, a 501(c)(3) organization and an affiliated entity of the NYSSCPA, is very important to the members of the Society and its mission because it administers the lifelong learning program for New York state CPAs. Because of the importance of the FAE’s efforts to New York CPAs, service as a FAE trustee is a highly fulfilling activity for members interested in giving back to the profession.

As the educational arm of the NYSSCPA, the FAE has its own governing body—a nine- to 12-person Board of Trustees—nine of whom serve a three-year term. Those terms are evenly staggered, so three vacancies occur each year. According to its bylaws, the FAE’s Board of Trustees acts to fill those vacancies on the FAE board from a pool of six or more candidates nominated by the Society’s Board of Directors.

Trustee responsibilities

FAE trustees typically meet four times a year to conduct the business of the Foundation. They are responsible for approval of the FAE budget, setting the general direction for educational programs, evaluating curricula, and developing strategies for program diversification and effectiveness. There is no compensation for service on the FAE board.

Eligibility requirements

According to the FAE bylaws, to serve on the FAE board, a prospective candidate must be a CPA and a member in good standing of the NYSSCPA. Trustees are appointed based on their interest and ability to contribute to the educational goals of the Foundation. Trustee selection, to the extent possible, represents a cross section of the Society’s membership, in terms of geography and areas of professional practice. Over and above the bylaw requirements, it is beneficial for candidates to have taken FAE courses or to have been responsible for sending others to FAE programs. In addition, candidates should be familiar with the market for adult learning in a continuing professional education environment. The FAE primarily targets small and medium-sized CPA firms and is expanding into programs for industry CPAs, as well.

How to submit a nomination

Those interested in serving should send an email to the attention of NYSSCPA President-elect Ira M. Rahilly at presidentelect@nysscpa.org by Feb. 22, 2019, at 12 p.m. (EST). The email should include a résumé and a statement of interest and ability to contribute to the educational goals of the Foundation. Candidate information will be forwarded to the Selections Subcommittee of the NYSSCPA Board of Directors, which will propose to the Society’s Board of Directors the names of individuals to fill the three FAE vacancies.

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Newly licensed CPAs must take CPE starting on Jan. 1, 2020

On Dec. 21, 2018, Gov. Andrew Cuomo signed into law a bill eliminating the three-year exemption from mandatory continuing professional education (CPE) for newly licensed CPAs and public accountants. The law will go into effect on Jan. 1, 2020.

The Society lobbied for the legislation as part of an effort to ensure that new CPAs remain competent in new and emerging skills sets that clients and employers have come to expect in the age of blockchain and artificial intelligence. The legislation, A.10648/S.8522A, passed the Assembly, 144-0, on June 19, 2018, and the Senate, 60-0, on June 20, 2018. The bill was sponsored by Assemblyman Albert “Al” M. Stirpe Jr. (D-127) in the Assembly and by Sen. Pamela Helming (R-54) in the Senate.

As a result, newly licensed CPAs in New York state will need to earn up to 120 credit hours of CPE during their first three years of licensure. Starting on Jan. 1, 2020, specifically, the legislation will require new CPA licenses to earn either 24 credits a year in a concentration, such as audit or taxation, or 40 credits a year in general CPE. Whatever ethics CPE regulations are in effect on that date will also apply to the newly licensed in New York. (See the notice below about ethics CPE changes.)

Reminder: Small firms and sole proprietors now subject to peer review

In October 2017, Gov. Andrew Cuomo signed into law a bill requiring firms with two or fewer CPAs that provide attest services to clients to undergo a peer review every three years. The bill essentially eliminated an exemption for firms with two or fewer CPAs. In November 2017, the New York State Board of Regents adopted an amendment implementing that law. According to Section 70.10 of the Regulations of the Commissioner—

“Any firm that begins providing attest services as described in Education Law Section 7401-a or otherwise becomes subject to mandatory participation in the peer review program shall:

(i) notify the department of its change in status within 30 days and provide the department with evidence of enrollment in an acceptable peer review program; and

(ii) the firm shall have a peer review completed within 18 months of the date such services were first provided.”

Firms with two or fewer CPAs that provide attest services are reminded that they must now undergo peer review. Once a firm takes on an attest engagement, that’s what sets the 30-day and 18-month clocks ticking.

How to notify the SED

In order to satisfy the requirement of notifying the State Education Department (SED), a firm only needs to email the office; however, if a firm wishes to notify the SED through a formal letter, it may do so, at the following physical or email address:

New York State Education Department Office of the Professions State Board for Public Accountancy 89 Washington Avenue Albany, New York 12234-1000 Phone: 518-474-3817, ext. 160 Fax: 518-474-6375 Email: cpabd@nysed.gov

How to enroll in a peer review

Firms looking to enroll in peer review should visit the American Institute of Certified Public Accountants’ PRIMA page at aicpa.org/InterestAreas/PeerReview/Pages/PRIMA.aspx. On that page, click on the link “Getting Started in PRIMA,” for instructions on how to create an account and enroll.

Effective date of ethics CPE changes to be clarified after Regents approval

At its Oct. 24, 2018, meeting, the New York State Board for Public Accountancy approved regulatory language implementing new ethics continuing professional education (CPE) requirements. If this language is accepted by the New York State Board of Regents, New York state-licensed CPAs will be required to complete two credits of ethics CPE every year, rather than the current four credits every three years. In addition, two out of six credits every three years will have to include a New York state-approved ethics course, while the other four credits can be in a variety of ethics topics, including behavioral ethics.

The regulatory language approved by the public accountancy board will, if accepted by the Board of Regents, appear in Section 70.9(b)(3) of the Regulations of the Commissioner of Education: “For each registration ending on or after January 2, 2020, a registered licensee who is subject to the continuing professional education requirement shall be required to complete at least two credits in ethics every calendar year period; including, at a minimum, a two-credit NYS approved ethics course must be completed every three calendar years. The two credits of ethics may be counted toward the annual requirement in the calendar year that they are taken.”

After some NYSSCPA members sought clarification about the effective date of these changes, the NYSSCPA reached out to the public accountancy board. The board responded that it would be premature to provide such clarification now, as the Board of Regents has not yet reviewed these changes. If the Board of Regents does accept the changes as regulation amendments, the public accountancy board will provide examples and clarification at that time, via frequent updates on its website, op.nysed.gov/prod/cpa/cpace.htm. So, for now, CPAs should continue to adhere to the current regulations for ethics CPE.

NYC Dept. of Consumer Affairs to make minor modifications to signage rule for CPAs

The New York City Department of Consumer Affairs (DCA) is working on amendments to a final rule, announced in July 2018, requiring all tax preparers in New York City to post signs in their offices with price lists and other disclosures. Although CPAs are exempt from one requirement of the New York City Administrative Code and Bill of Rights that requires posting signage regarding pricing and qualifications, the newly modified rule, 6 RCNY (Rules of the City of New York) Section 5-66, does not include that exemption.

The NYSSCPA met with DCA staff to point out the discrepancy and raise other issues, but the DCA has determined that CPAs will continue to be subject to most of the rule’s requirements. However, the department is working on amendments responsive to concerns raised by the NYSSCPA, including tensions between premise-based rules and work that CPAs perform on-site with clients. These amendments will go through the notice and comment rulemaking process. The NYSSCPA will inform its members once they are published.
Former Society presidents look back on how the profession has changed for women

By CHRIS GAETANO
Trusted Professional Staff

This year, Ita M. Rahilly will become the 100th president of the NYSSCPA, and its eighth female president since the Society was founded over a century ago. Her installation will take place during a time of rapid change for both the profession and the business world as a whole, particularly when it comes to the growing role of female leaders in the workplace. To kick off the year of the 100th president, The Trusted Professional will be interviewing some of the other past female Society presidents about their own experiences navigating what has historically been a male-dominated profession, how things have changed and how they’ve stayed the same. In this issue, we are featuring past Society presidents Marilyn A. Pendergast, who served from 1994 to 1995, and Jo Ann Golden, who served from 2002 to 2003.

Marilyn A. Pendergast

Why did you choose accounting as your career?

Well, in college I was an education major. I was going to teach business. When I took the accounting courses there, I really liked them—I hadn’t taken any business courses in high school—and did really well in them. So I started taking more electives, and one of the teachers told me, “Too bad you’re a girl, because you’d make a really good CPA.” But I didn’t see any reason why that should stop me, why I wouldn’t be able to do it. So, after teaching high school for two years, … I wrote a letter to every firm in the Albany area and I got two interviews. One was what was then one of the Big Eight firms, and the other was Urback Kahn & Werlin (a predecessor to UHY LLP), where I have been ever since.

What was it like being a woman at a CPA firm at a time when this was highly unusual?

Well, we’re talking now back in the ‘60s, so that’s a long time ago. The attitudes were very different, and there were people who wouldn’t work with women! There were women bookkeepers who would refuse to work with a woman accountant! But … I was fortunate in that our partners at that time were very supportive of me and said, “Well, this is the right person, the best person, for the job, but if you don’t want to work with her, that is your choice.” As it turned out, most [people] did.

Did you feel there was difficulty in being taken seriously when you first started?

No, I didn’t think it was so much as being allowed in to begin with. Once I was allowed in, [my] skill level, I think, was pretty obvious.

Where has there been the most change in terms of women in the accounting profession from when you first started out?

When I first went to an AICPA Council meeting, there may have been 10 women out of 200 people there. Obviously, now there are a lot more. … There are now women in leadership roles in the firms, including the big firms, and that just wasn’t there before. But, again, 50 years is not a long time in the scheme of things, so we’ve come a long way, though we still have further to go.

What has not changed, or barely changed at all?

This isn’t just our profession, but still, for the most part, women are expected to be nurturers, the ones expected to arrange for child care or parent care or other things, and that requires more flexibility than, perhaps, you’re able to get. We need to continue finding ways to make the workplace more flexible, and we should be able to do that because technology now gives us a lot of advantages. But that is the biggest obstacle.

What new problems have emerged for women in the accounting profession that weren’t there when you first began?

One thing is, when I started, [sexist behavior] was very obvious—no one tried to hide it. They would say, right to your face, that you don’t belong here, that you should be with your kids, that women can’t do that. Now, you’re not going to hear that, obviously, but sometimes, it’s easier to face if it’s very direct. You can respond. But not if you’re not aware of it.

What role did the NYSSCPA play in your career?

It was a very major role, starting with the local chapter. Here in Albany, as soon as I passed the CPA exam, they all dragged me to the meeting, and one of the former presidents of the chapter said, “What’s that little girl doing here?” … I guess now when I go, they may say, “What is that little old lady doing here?” But it was just expected you’d be involved and pay back what the profession gave you. Through that, I started going to state committees, which let me meet different people and get different viewpoints. All that was very beneficial to me and my growth in the profession, both technically and personally.

Jo Ann Golden

What led you to choose accounting as a career?

It was really a career I chose in midlife. As a math major, my first job out of college was as a junior high math teacher. Following a “traditional” path at the time, I left teaching to raise my kids. While my kids were young, I volunteered as a child advocate, which led to a career as executive director of a not-for-profit concentrating on advocacy for children. One of the things we did was analysis of community needs and efficient ways to deliver children’s services. Numbers were always a part of that, looking at the dollar and cents, evaluating community budgets and more. The other piece of that was managing the grants we received; I loved the accounting aspect of that, and so I started taking classes at a local college and ended up leaving my job and going to school full time to get my second degree, [this time] in accounting.

At that time, the requirement to be a CPA was a bachelor’s degree and a two-year work experience under a public accountant (CPA or PA). I then went to work for my father [who was a licensed public accountant]. Although I loved working with my father, I needed more experience in audit/attest practice, so I also worked for several local firms. After a time, I opened my own practice and, subsequently, I was invited to merge my practice into a regional firm.

As I started the whole process, I had kids in high school—it was my early 40s when I made my change in careers—and it was definitely a choice that I went into with a full understanding of what it meant and the kinds of things I was going to be involved in.

So you took a less conventional path than “go to college, join a firm, work your way to partner.” How did this affect the arc of your accounting career?

I think, because I came up through the path that I did, I had a broader career and life experience than a lot of people. … I could come into the profession with the understanding of how governance worked, how business worked, because I had experienced it. I became an accountant when I was older and more mature, and it wasn’t about becoming an accountant because it just seemed right; it really was a desire to be part of this profession.

You’ve also served on a variety of corporate boards. How does that experience, when dealing with nominal peers, differ from the experience of working your way up through the ranks as an accountant?

In my experience, I was the first woman to come onto the board of CONMED Corporation, a public company, and I was the only woman there for probably 12 or 13 years. There were lots of “old-school guys”—and...
difficult for law enforcement to track these transactions."

Because of the difficulty in tracing them, he said, cryptocurrencies have become the preferred way to pay for criminal services or contraband goods. He also pointed to their increasing role in ransomware attacks, noting that hackers used to demand payment in U.S. dollars but now almost always ask for cryptocurrencies instead. The field has also become fertile ground for scammers of all stripes, ranging from sellers taking tokens for goods or services that they never deliver to investment scams that lure victims with promises of outlandish returns.

"In one case, investors were led to believe they were funding the development of a new type of cryptocurrency, and they lost hundreds of thousands when it was revealed the entire operation was a Ponzi scheme," he said.

Cryptography challenges

Vance also pointed to the increasing efficacy of cryptography and tech firms’ recent unwillingness to help law enforcement break through it. He noted that, until about 2014, prosecutors could access the contents of any smartphone, provided they had a warrant. After that point, though, Apple changed its devices so that not even the company could see inside, with other companies soon following suit. Vance estimated that, since then, law enforcement can get into only half the devices they try to access, and that’s even with outside experts coming to help. This, he said, is a major problem.

"Everyone in the criminal world uses smartphones, just like all of us do," he said. "Criminals have moved off paper like you and I, and smartphones are used for every aspect of criminal enterprises. ... If we can’t access the device, we can’t access the information necessary to prosecute the individual."

He said that right now, his office is working on a case involving what he said was a very significant recruiter for ISIS working on a case involving what he said was a very significant recruiter for ISIS. "Everyone in the criminal world uses smartphones. ... and smartphones are used for every aspect of criminal enterprises. ... If we can’t access the device, we can’t access the information necessary to prosecute the individual."

—New York County District Attorney Cyrus R. Vance Jr.

Difficulty in finding beneficial owners

However, not every challenge is technological. Vance also said that another major obstacle to combating financial crimes is the United States’ lack of transparency when it comes to incorporating businesses. Determining the actual beneficial owner of a U.S.-based entity can be very difficult, in contrast to doing so for entities based in many other countries; he said this lack of transparency has, time and time again, been a thorn in the side of prosecutors.

"In any investigation of a white-collar crime, we must follow the money to identify what the evidence is and who is most culpable, which means issuing subpoenas to financial institutions and pursuing leads we hope their records will provide," he said. "But today—and it has been this way for the nine years I’ve been DA—too often, these leads go nowhere, and our investigators have eaten up days and months, only to hit a wall."

On a "near daily basis," the DA's office encounters a company or network involved in a suspicious activity but is unable to determine who is actually controlling and benefiting from it. Consequently, his office cannot identify an actual suspect. He ruefully noted that if the company had incorporated in the Cayman Islands, which does collect beneficial ownership information, a prosecutor would actually be better positioned to root out financial crimes than if that same company had been formed in the United States instead.

"Ironically, the U.S. is one of the easiest places in the world to open anonymous companies to launder money, oftentimes with impunity," he said.

Vance called for a federal law that requires beneficial owners to be identified on state incorporation forms. This, he said, would improve prosecutors’ ability to attack, not just financial crime, but terrorist financing and a host of other crimes as well. It would also, he said, improve the United States’ credibility with law enforcement partners.

“We routinely collaborate with foreign law enforcement agencies, but it’s detrimental to these partnerships and, frankly, embarrassing when we have to tell international law enforcement we can’t assist them in taking down U.S. criminal enterprises because the identity of the owners is beyond our reach,” he said.

cagatano@nysscpa.org

New York County District Attorney Cyrus R. Vance Jr. (left) receives the NYSSCPA’s 2018 Law Enforcement Award from Victor Lessoff (right), a member and former chair of the NYSSCPA’s Anti-Money Laundering and Counter Terrorist Financing Committee.
NONPROFIT ORGANIZATIONS CONFERENCE

Speaker: Becoming a data-driven organization isn’t easy, but it’s worth it

By CHRIS GAETANO
Trusted Professional Staff

Many people are talking about data, and how big data will change everything, but what exactly does this mean on an operational level? Amy E. West, CFO of AHRC New York City and a speaker at the Foundation for Accounting Education’s 41st Annual Nonprofit Conference on Jan. 17, offered lessons from her own experience. AHRC is an organization that advocates on behalf of people with intellectual and other developmental disabilities.

A data-driven organization, West said, is one that makes decisions based on verifiable data, essentially being evidence-driven. There are many advantages to taking this approach.

One, she said, is that decision-making is more systematic, objective and measurable.

“Plain intuition can carry a very big risk. [In a data-driven organization,] progress is measured using data rather than gut feeling, so you can actually measure progress and de-personalize decision-making,” she said.

She also said that, because this approach is forward-looking rather than historical, it is easier to respond quickly to changing conditions.

She noted that in her own organization, “we have a very dynamic funding operating model—we see market conditions are changing all the time,” and so this approach “allows an organization to adapt with agility.”

This adaptability arises because a focus on data allows an organization to test different strategies and scenarios to determine what is truly effective, which, in turn, lends greater confidence to decision-making. For instance, she said, her own organization now gets information about donor preferences through its social media, and uses that information to provide better customer service.

She noted, however, that making this change requires a large cultural shift in the organization that leadership might be reluctant to enact. Being data-driven, she means, there’s significant pressure to achieve results in less time, as it tends to accelerate an organization’s pace, and so “everything seems due yesterday.” She also said that powerful personalities can disrupt more data-driven approaches due to what she called the “HIPPO effect”: the highest-paid person’s opinion.

“When the data suggests you go this direction, but the most senior person in the room says you go in that direction, do you defer to them or do you just go with the data? So that always leads to challenges,” she said.

West observed that a focus on data requires a different set of skills. Instead of reporting information, much more focus is on analyzing information, meaning that organizations will need people keen on doing statistical analysis.

These metrics are rather easy to calculate, and the data is easily available to us, but I don’t think they provide much information as to how to run our business or whether we’re operating an effective not-for-profit organization,” she said.

The questions she is more interested in, as the head of a data-driven organization, are ones such as, “Are we fulfilling our mission? Are we able to meet our obligations when they come due? Are we offering the goods and services required by our constituents?”

or “Are we attracting and retaining exceptional employees?” Learning to ask the right questions, she said, can lead to meaningful answers, even in situations where one is swimming in information that can’t be made meaningful.

“It’s important [that you focus on the questions you want answered, focus on the data you need],” she said.

In order to enact the cultural change needed to become data-driven, she said that organizations must start at the top. Leaders must support the move, and their support can be gained through the use of what she called “aha moments” that genuinely improve operations. She noted that one such moment at her own organization was when it looked at exit interviews in order to determine why people left.

“We had a group of senior folks who really thought most people were leaving our organization because of compensation, but the aha moment was they were unhappy with their relationship with their manager, and so we took that data away and we created managerial training for our front-line managers,” she said.

Speaker: Tax treatment of cryptocurrencies getting clearer, but many questions remain

By CHRIS GAETANO
Trusted Professional Staff

While the IRS has shed some light on how cryptocurrencies such as bitcoin should be treated for tax purposes, there remain numerous gaps that leave planners in a precarious position when it comes to these digital assets, according to Mark DiMichael, a partner in the valuation and forensic services department at Citrin Cooperman and the chair of the NYSSCPA’s Digital Assets Committee.

Speaking at the Foundation for Accounting Education’s Tax Planning for Individuals Conference on Nov. 5, 2018, DiMichael said that the IRS released revenue guidance in 2014 specifying that virtual currencies such as bitcoin should be treated as property, for federal tax purposes. If someone early buys and sells cryptocurrencies as part of a trade or business, then the tokens are inventory, in which case gains and losses are ordinary income, not capital. If, on the other hand, someone buys and sells them for investment purposes, then the gains and losses are capital.

The guidance also mentions that if someone is paid in cryptocurrencies, then that is ordinary income, valued in U.S. dollars at the time it was received. The same is true of mining directly: Any gains from mining are valued in U.S. dollars on the day the gain is made. The IRS mentioned that this is much like earning any other type of property—as if someone received a car as a bonus. In such a case, too, the person would value the car at the time it was received and pay tax on the income.

This means, said DiMichael, that if a company pays its employees in cryptocurrencies, then “you’d have to issue a W-2 or 1099, just as if it was a regular payment in some other asset.”

So that much is clear. But DiMichael brought up other questions that are still very unclear. For example, he asked, “Can cryptocurrency be considered personal property?”

While it seems from the guidance that use determines treatment, “if what you use it to buy groceries? That might make it sound like personal property,” in which case, you pay taxes on the gains and cannot deduct the losses.

He also mentioned that it’s currently unknown how exactly people should treat a fork event, that is, when one blockchain essentially becomes two. This is what recently happened when bitcoin spun out Bitcoin Cash over a disagreement about what software should be used. Bitcoin Cash itself is currently undergoing another fork, also based on software usage. DiMichael said that when bitcoin forked, holders suddenly held both bitcoin and Bitcoin Cash. If someone had four bitcoins prior to the fork, that person now held four bitcoins and four Bitcoin Cash tokens.

“In that case, some people now have two assets, where they used to have one. Is that a taxable event? That’s an open question as well,” he said.

One theory that’s been advanced by practitioners is that the new currency is a new distinct asset and, therefore, it counts as income. The other theory is that it’s more like a stock dividend or split, and so the tax is only paid when the currency is sold. The second theory, he said, is similar to the idea that if someone has a cow, and then the cow gives birth to a calf, the calf does not represent new income until it’s sold.

“There’s no guidance on that. You’ll have to pick one or the other and justify it if questioned by the IRS,” he said.

However, even without guidance, there are certain areas where a consensus seems to have emerged around treatment. For example, since cryptocurrencies are property, and since donations of property for charitable purposes require a qualified appraisal in order to claim the deduction, then gifts of cryptocurrencies are treated like any other piece of property. DiMichael noted that his own firm has done a number of cryptocurrency valuations, and that it has valuation experts qualified to do just that. Furthermore, while there is no specific guidance anywhere saying that cryptocurrencies need to be reported by filing a Report of Foreign Bank and Financial Accounts (FBAR), DiMichael said “it’s better to just report it than not report it.”

“Just put it on the FBAR. It’s not worth the risk,” he continued. “If you don’t file an FBAR and the government says you should have, the penalties can be draconian.”
COBIT 2019: a practical enterprise information and technology framework

By JOEL LANZ, CPA/CTP, CFF, CIA, CISM, CISSP, CFE

E xecutives and their financial professionals continue to face challenges when dealing with enterprise-wide technology. No longer relegated to back-office operations, information and technology (I&T) increasingly drive the ability of organizations to achieve business objectives, including serving a prominent role in customer relationship management. For many businesses, decentralization of technology is now the normal practice, with division or department leaders encouraged to adapt or experiment with technology resources that enable them to best achieve their goals, as corporate mandates become increasingly flexible.

Some organizations continue to require, but may not always enforce, practices to help ensure the reliability and protection of the information processed. Others view information as an asset and require protections to safeguard the information as they would physical assets. Unfortunately, especially for small and midsize enterprises (SME), the cost of identifying appropriate governance practices can be burdensome, and the availability of skilled professionals is limited. Yet they face the same challenges as their larger competitors.

Technology-related governance, risk, and assurance professionals recognize COBIT (Control Objectives for Information and Related Technologies) as an important framework that helps them address evolving digital challenges. Typically, frameworks provide professionals with a vendor-neutral structure, processes and tools to cost-effectively resolve business challenges. COBIT, an information and technology framework created by ISACA, a nonprofit global association once known as the Information Systems Audit and Control Association, achieves this objective by incorporating good practices from various industries and organizations of all sizes.

COBIT acts as an umbrella framework in that it incorporates other standards (e.g., those of the International Organization for Standardization (ISO), the Information Technology Infrastructure Library (ITIL), and the Committee of Sponsoring Organizations of the Treadway Commission—Enterprise Risk Management (COSO-ERM)) into its guidance, enabling users to address multiple standards and expectations. Since it is a framework and not a standard, users are able to adapt the guidance to best suit their needs and size.

Despite its benefits, some practitioners were disappointed with the previous version of COBIT 5, released in 2012. Required evolutions in the framework to address international standards, along with more robust assessment guidelines and the attempt to incorporate other ISACA-related publications into one framework, posed challenges to some practitioners who also thought COBIT 5 to be too cumbersome. SMEs were especially disappointed, as the SME-focused Quickstart, introduced in COBIT 4, was not updated for the new version. Both larger and smaller companies relied on the popular maturity level descriptions to initiate risk management discussions and facilitate the development of risk appetite statements—describing the amount and type of risk that they would be prepared to pursue, retain or take—and they were disappointed when these features were not included in COBIT 5.

“Some practitioners were disappointed in the previous version, released in 2012. ... COBIT 2019 resolves many of [its] issues.”

COBIT 2019 resolves many of these issues and provides a practical tool for grappling with the increasingly complex challenges faced by organizations today. The framework comprises four volumes: Introduction and Methodology, Governance and Management Objectives, a design guide and an implementation guide. You can find out more about COBIT 2019 at isaac.org/COBIT/Pages/default.aspx.

Many organizations, especially SMEs, will find that the Introduction and Methodology guide serves as a great orientation to both the framework and the thought process for selecting a few higher-priority objectives needed for each organization. For some, this may include one or two objectives. Financial executives will find the effort similar to the experience of developing a business plan that sometimes requires tough discussions and analysis in order to select actions that would best enable the organization to achieve its goals. As the authors of COBIT write, “COBIT does not make or prescribe any IT-related decisions. It will not decide what the best IT strategy is, what the best architecture is, or how much IT can or should cost. Rather, COBIT describes all the components that describe which decisions should be taken, and how and by whom they should be taken.” (COBIT 2019 Framework: Introduction and Methodology, p. 13) In other words, to make the right decisions, you need to understand what you are deciding on and the components that can influence the success of the decision’s outcome.

A recommended series of steps

1. Start with the first two chapters, which will familiarize you with the new version and the expected role of specified stakeholders.
2. Go to Chapter 9, which provides you with an overall risk management strategy for introducing the framework into your organization. Adapt as needed.
3. Chapter 3 provides a very brief introduction and is worthwhile for those new to COBIT.
Indemnification: understanding your risks

By SUZANNE M. HOLL, CPA

CPA firms are experiencing an uptick in clients trying to embed indemnification or hold-harmless clauses in various agreements with the firms. Many of the clauses are inappropriate for CPA services or are overly broad, even to the point of shifting all liability to the CPA firms. Here are some considerations to weigh before agreeing to any such clauses.

Indemnification and hold-harmless clauses dictate the degree of liability of each party and the extent to which each party takes on or shifts risk. Certain courts have found that hold harmless is not distinct and is the same as indemnification, while others have found the duty to hold harmless is broader than indemnification, as it also requires protection against liability.

For example, an indemnity clause typically states that one party agrees to “indemnify” the other party. To indemnify a party is to absorb the losses if something “the indemnitor” do, or fail to do, causes the other party to experience loss, damages or even a lawsuit from a third party. CPAs are being pressured more and more by their clients to take on the “indemnitor role” and to agree to such language in engagement letters, nondisclosure agreements (NDA), business associate agreements under the Health Insurance Portability and Accountability Act (HIPAA), and other agreements that may be executed between CPAs and their clients.

Most people would support and agree with the concept that if a mistake is made that results in damage to someone else, the party that made the mistake should be held responsible to “make it right.” What “making it right” looks like, of course, will depend on the facts and circumstances of a particular situation.

How this translates to the CPA-client relationship can be troublesome, given that some of the indemnity and hold-harmless clauses, as written, are extremely broad, and there may be many contributory components to the underlying facts and circumstances that should go into the assessment of determining actual “fault.” For example, did the CPA solely contribute to the cause of the damage as a result of his or her negligence, or did the client or one of its representatives contribute, in part, to the underlying cause of the mistake?

Many of the indemnity or hold-harmless clauses embedded in CPA-client agreements attempt to shift all liability from the entity to the CPA firm, and include broad language that extends the CPA firm’s responsibilities to more than just the professional services being performed. Such agreements, including NDAs, may be boilerplate agreements that clients use for all independent contractors. As such, they contain many legal conditions and caveats that are not necessarily appropriate, with respect to the professional services being provided by the accounting firm.

Camico strongly encourages CPAs to take great care in reviewing any contracts or agreements containing such language, consider the worst possible scenario under the agreement, and determine the level of risk their firm would be taking on. It’s important, therefore, that before they contractually bind their firm to an arrangement of this significance, they take the time to understand all the implications of the legal code in the agreement. Doing so will enable them to make an informed decision about any terms and conditions that may pose a higher standard and/or greater liability to the firm than what would normally be anticipated. CPAs should make sure that they are comfortable with the agreement and the expectations that will fall on their firm. They should be prepared to reject the client’s request if they cannot negotiate the terms to their satisfaction.

Risk management tips

Before signing these types of agreements or contracts, CPAs should ensure that their firm has considered the following risk management steps and adequately provided for the potential of additional liability risks:

• Consult an attorney in your state before agreeing to any indemnity clause.
• Push back! You don’t have to accept the terms as they are written in an agreement, pre-printed or not.
• Educate your client regarding the scope and limits of your engagement. This enhanced awareness may help to convince your client that a broad, all-encompassing indemnity clause is not appropriate, given the scope and limits of the engagement letter.
• Limit any indemnity and hold-harmless conditions in agreements that you sign by taking all three of the following key steps: 1) add language clarifying that any liability would need to be judicially determined by a court of competent jurisdiction; 2) specify that the firm is responsible only for claims that arise “solely” as a result of the firm’s gross negligence or willful misconduct; and 3) confirm that the firm will assume no obligation or liability arising in whole, or in part, from the client’s own negligence or intentional misrepresentations.
• Understand the coverage implications of the indemnity clause, as this type of provision may lead to significant costs to a CPA firm. Professional liability insurance policies typically have an exclusion for claims arising out of liability assumed by the firm under a contract, unless that liability would have been present regardless of the existence of the contract. Be wary of contractually binding your firm to this added significant exposure; indemnification can be costly, especially if the language is broadly worded and the clause has you paying for claims regardless of the merits.
• Consult an attorney in your state if you have questions regarding the efficacy and potential exposures to your firm of certain indemnification and hold-harmless clauses before signing agreements containing such language.
• Hierarchy of risk—questions to consider
When asked to sign an indemnity agreement, CPAs should ask themselves the following questions:

• Who is asking you to indemnify them? Most often, you will be asked by your clients to indemnify them. Sometimes, a third party may ask.
• Why are you being asked to indemnify? Determining the answer may provide information so that you can suggest an alternative that is acceptable to all parties.
• What exposure is the subject of the indemnification request? It is almost never appropriate to agree to indemnify your client or third party for exposures directly related to the client’s obligations to you. For example, any request that provides indemnity for your client’s failure to accurately and timely inform you of information necessary to complete your work is very risky and not appropriate. On the other hand, client requests for indemnity for exposures unrelated to your professional services are far less risky. For example, clients may ask for indemnity for risks arising as a result of your personnel being in the client’s offices (e.g., slip and fall, damage to property, etc.). We often see large corporations, municipalities and other governmental entities making such requests.
• Is the indemnity request limited? A broad blanket indemnification, again, is almost never appropriate. Remember, unless specifically limited, an indemnification does not require you to be negligent in order to trigger your duty to indemnify. On the other hand, indemnification agreements limited to exposures in which you are judicially found negligent and the sole cause of the loss creates very little additional exposure to you.
• What insurance issues need to be considered? By far, the most important insurance issue to consider is the impact of your acceptance of indemnification on your professional liability insurance. Before you agree to any indemnification, check with an attorney in your jurisdiction or with your insurance company. The other insurance issue to consider is the extent to which you can protect against the indemnity risk through other insurance. For example, many business owners policies (BOP) address the premises risk exposure from your personnel being in the client’s offices. If you cannot insure against the risk created by the indemnification, you must consider fee or exposure leverage. Assess the size of the indemnity risk versus your fees. If the indemnification exposure is much greater than your fees, your risk increases, and the reward is limited.

If you are still considering the indemnity request after asking these questions, consult your legal adviser. Never decide on your own. Indemnification law varies by state, so this risk discussion does not address possible issues or solutions on a per-state basis.

Suzanne M. Holl, CPA, is senior vice president of loss prevention services with Camico (www.camico.com). With more than 28 years of experience in accounting, she draws on her Big Four public accounting and external industry background to provide Camico’s policyholders with information on a wide variety of loss prevention and accounting issues.

For information on the Camico program, call Camico directly at 800-652-1772, or contact Dan Hunsinger, Camico’s Director of General Liability Brokers, Inc., 410-757-1932.
Assembly Member Gottfried: Debate on legal cannabis now about ‘how,’ not ‘whether’

By CHRIS GAETANO
Trusted Professional Staff

ew York State Assembly Member Richard N. Gottfried (D-Manhattan), the chair of the Assembly Committee on Health and the author of the state’s medical marijuana bill, said the debate around the cannabis industry has moved on from whether to allow it to how the industry should be structured and regulated.

Speaking at the Foundation for Accounting Education’s Cannabis Conference on Dec. 11, Gottfried said this development represents a sea change in attitudes toward cannabis products within both major political parties. One reason for the change is that people realized that “civilization did not end” when small amounts of the drug were decriminalized in 1977, nor did it end when the state passed the medical marijuana law in 2014. The other reason, he said, is simple capitalism.

“The big factor—certainly in Republican attitudes—was certainly capitalism: Once the marijuana business was not a matter of hippies but hedge-funded major corporations, the attitude in the state Senate [which has historically been dominated by Republicans] changed considerably,” he said.

Gottfried said that over the many hearings the Assembly has held on this topic, and the numerous listening sessions the governor has held throughout the state, “there is virtually zero substantive opposition for adult use [of cannabis] in New York.” The state of cannabis discourse being what it is, Gottfried said that the debate about whether to allow a legal marijuana industry for both medical and nonmedical needs is “pretty much over.” In fact, he said, Gov. Andrew Cuomo planned to in the next budget, only a short time after he had previously demonstrated heavy resistance to allowing even just medical use.

Right now, he said, the discussion is almost entirely around how the industry should be structured.

One option is to model it after the alcohol industry, which is highly fragmented. He said that alcohol producers in New York cannot have an ownership stake in alcohol distribution, such as restaurants and supermarkets (with some exceptions for things like craft breweries and vineyards). This, he said, is why Budweiser can be found at nearly any bar but does not, itself, open bars. Modeling the cannabis industry after alcohol, then, would mean having next to no vertical integration. Such an approach, for example, medical marijuana companies must use their own production facilities to make their own product, which must then be transported using their own drivers who transport it to their own stores. The company would not, for example, be able to hire an outside trucker. He admitted that it was “weird,” and that there is no other sector of the economy that demands such a degree of vertical integration, especially since, in many other industries, such a structure would not be tolerated by regulatory authorities.

There’s also the question of who gets to be in the industry. He said that there has been substantial advocacy from communities of color arguing that the people who had been damaged by years of marijuana criminalization should have the opportunity to get into the business, which Gottfried thought was reasonable. The current statute provides, “Registered organizations shall not be managed by or employ anyone who has been convicted of any felony of sale or possession of drugs, narcotics, or controlled substances.”

Finally, he said, there are questions about how the medical marijuana program would interact with full legalization. Companies in the medical world, he said, are concerned that they will not be able to survive in a full-use world. There is also a debate on the degree to which marijuana sold as a medical product should be produced in a medical environment and be distributed only by health care providers. Drawing an analogy, he said that if his doctor told him that red wine would be good for him, it doesn’t mean that he would need a prescription to buy a bottle. This question, in turn, plays into another question about what insurance will or will not cover, with Gottfried saying that Medicaid would most likely not pay for his bottle of wine.

Through it all, though, Gottfried pointed to the importance of motivation when it comes to thinking about the cannabis industry in New York, saying that it’s about more than just having fun. This was why he tended to use the term “adult use” instead of “recreational use.”

“I say adult use, not recreational use, because the whole legislative enterprise is not about helping people have a better time at parties,” he said. “It is really about getting rid of the criminal superstructure [disrupting] thousands of lives every year.”

Try to own a car company and a car dealership, and see what happens,” he said. The two main proponents of vertical integration are the medical marijuana registry organizations and major investors, who want the industry to be dominated by very big companies, he said. He added that organized labor actually favors this approach, as well, explaining that the statute authorizing medical marijuana had mandated the use of union labor. He also said it appears that unions believe that it’s easier to organize one big company versus many smaller ones.

Participants on the panel “Should I Take This Cannabis Client?” From left to right: Jason A. Hoffman, Mitzi Hollenbeck, Larry Lipman and moderator John V. Pellitteri.

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Zachary Gordon, chair of the NYSSCPA’s Cannabis Industry Committee, and chair of the Cannabis Conference.

New York State Assembly Member Richard N. Gottfried speaks at the Cannabis Conference.

Participans on the Cannabis Conference panel on legal and operations issues. From left to right: Karl Kispert, Peter A. Metz, Daniel T. McKillop, Pasquale Rafanelli and moderator Robert M. Bernstein.

By CHRIS GAETANO
Trusted Professional Staff

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Speaker addresses tax implications of Sec. 280E, which bars cannabis business expense deductions

By CHRISTI GAETANO
Trusted Professional Staff

With cannabis businesses unable to take the kinds of deductions any other firm would take for granted, Peter A. Metz, a principal at Grassi & Co., speaking at the Foundation for Accounting Education’s Cannabis Conference on Dec. 11, said that firms must understand IRS Code Section 280E in order to avoid a massive tax bill.

Despite cannabis being legalized in many states, the federal government still considers it a Schedule I controlled substance. Because of this designation, the law does not allow cannabis industry firms to claim business expense deductions, unlike nearly every other business.

A cannabis company, for example, cannot deduct advertising, insurance, marketing, rent, repairs, salaries, state taxes, utilities and many other expenses. The only item that such businesses can deduct is cost of goods sold, which is governed by Section 280E.

“Why do we care? If we don’t, we will face a large tax burden if we don’t maximize cost of goods sold,” Metz said.

He explained that one should use IRS Code Section 471—which concerns inventories—in order to calculate cost of goods sold. However, Metz also stressed the importance of keeping up to date with tax court case law, which further refines what is and is not deductible.

For example, in the case Oliver v. Commissioner, a business sold both cannabis products as well as non-cannabis-related amenities. The company claimed business deductions, arguing that its non-cannabis offerings meant that it was not solely dealing in controlled substances, and so was not subject to 280E for the non-cannabis products. This argument was not convincing to the judge, however.

“The problem was the taxpayer provided those amenities for free... So the court ruled that both activities were combined as a single cannabis activity, subject to 280E,” said Metz.

This is in contrast to another case, Californians Helping to Alleviate Medical Problems (CHAMP), Inc., v. Commissioner, which involved a caregiver organization that also happened to sell cannabis. Patients smoked the cannabis in a special room away from other patients. In this case, the court sided with the organization, as the caregiving was ruled to be a separate business expense from the cannabis, since that was not considered their primary business. This ruling meant that the organization could indeed split its business into the part that deals in controlled substances, which cannot claim deductions, and the medical caregiving business, which can.

However, a more recent case, Alterman v. Commissioner, held that there are limits to what non-cannabis can be separated out. The case involved a business that sold cannabis as well as non-cannabis products, and wanted to separate out the latter half for tax purposes.

The tax court ruled against them, however, because the non-cannabis products being offered were drug paraphernalia, such as pipes and bongs. “The result was [that] the sale of pipes and paraphernalia complemented the business of cannabis sales, and therefore was considered part of the cannabis business,” said Metz. He added that the owners were also penalized for very sloppy bookkeeping.

Finally, a case that was decided at the end of November added proportionality to factors in determining whether a company can separate out non-cannabis aspects of its business. The case, Patients Mutual Assistance Collective Corporation d.b.a. Harbor-Side Health Center v. Commissioner, involved what Metz said was one of the largest marijuana dispensaries in the country, with over $25 million in sales last year.

The company decided to apply the more broadly based Section 263A for calculating cost of goods sold, instead of Section 471, as it also sold non-cannabis therapeutic products. The court ruled against the company, Metz said, as the non-cannabis components of the business were a small fraction of its overall activity and so were considered incidental.

The court said that, despite the non-cannabis-related products and services, this meant it was functionally a cannabis company and therefore subject to Section 471.

Metz said that, at time goes on and the industry gains more acceptance throughout the country, he expects that Section 280E will eventually be overturned. He noted that a Schedule I drug is defined partially by its not having any accepted medical use. Since other and other states allow medical cannabis, this implies that these states do see the substance as having medical value, and so, therefore, do not consider it to be a Schedule I drug.

Over time, he said, the Food and Drug Administration will likely approve cannabis’s use on a federal level, which would then release it from its Schedule I designation.

“But in the meantime, we have to comply with 280E,” he said.
nabis businesses, and there are 486 financial institutions, up from 412 at the end of 2017. In Colorado, he said, patient counts have been coming down since recreational cannabis became legal, as have revenues. He has noted trends in Nevada, Oregon and Alaska. Most states with recreational use have been merging the two markets, but Colorado still maintains a bifurcated market. He also said it has become more difficult to become a cultivator because of the growing колл. "We want to use blockchain to decentralize the declining wholesale price of the plant."

Using Colorado as a case study, he said that the industry took five years to reach maturation. While sales increased over that period, and the state benefited from "cannatourism," it was the only state with recreational use, so sales have flattened in 2018.

Karnes then turned to New York state, where medical marijuana was legalized in 2015. He said the program started slowly, with limited products, limited licenses and qualifying conditions. There hasn't been a lot of doctor participation in the program, he said, and there are only about 83,000 patient card holders, who represent about 3.4 percent of the population. He noted that recreational use has a good chance of entering the market, and that the program is now "stable and maturing." While sales have increased, he said, "it's not a mature market." He noted that while states are seeing similar trends, there are differences. In Colorado, he said, patient counts have gone down, but in New York, they have remained steady.

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Society’s Winter Rooftop Party

On Dec. 5, the NYSSCPA hosted a tropical-themed Winter Rooftop Party at DL on the Lower East Side, featuring umbrella drinks, Hawaiian shirts, leis and bossa nova music.
me. It took many years, but I did serve as the first woman chair of the audit committee. In addition, I was invited to serve on the board of a bank and was also the first woman to become chair of the bank’s audit committee. … I was always treated very courteously, but I think, somehow, to earn respect, it takes a little more for the women involved, and that’s the difficulty women are facing now. … I think there’s still this attitude—and it’s a subtle attitude—that you run into many times: You have to prove your worth, that you’re as good as the guys. It was what may have been described years ago as a good old boys’ network. …

“I would say understanding firm dynamics is really critical because you’re going to be working with the various types of personalities that people have. This is part of becoming a good communicator—understanding people and their psychology and the sociology of the community you’re in ….”

—NYSSCPA Past President Jo Ann Golden

So then, how did you respond to this attitude?

Here’s the thing: Having just served as president of the NYSSCPA, I had the current knowledge. I came in with the understanding of what Sarbanes-Oxley was all about, I had the understanding of what the new rules were about. It was the same thing with the bank: I was bringing my perspective, my public company experience, to the bank, which was growing and was going to have to comply with new rules and regulations. I understood those. If you can bring your knowledge and impart it and do it in a way that can generate discussion, if you can help be part of the discussion, I think that can help women be an integral part of a group, even though they are the minority in that group.

A young woman just out of college, about to start her first accounting job, asks you for advice on how to be a successful professional. What do you tell her?

Obviously, you have to know your “stuff”; you have to be concerned about the fact that your professional knowledge is very well honed, but also, I would say, understanding firm dynamics is really critical because you’re going to be working with the various types of personalities that people have. This is part of becoming a good communicator—understanding people and their psychology and the sociology of the community you’re in, and the group dynamics that occur. Part of that is understanding how the pecking order works and understanding that a pecking order is not by itself terrible; it’s just the fact that you’re coming in as a beginner. I must say that my involvement on the Board of the New York State Society of CPAs and my committee work have been invaluable, in this regard.

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Taxpayer advocate: IRS has 81% false positive rate for refund fraud

By CHRIS GAETANO
Trusted Professional Staff

National Taxpayer Advocate Nina E. Olson, speaking at the Foundation for Accounting Education’s IRS Practice and Procedures Conference on Dec. 7, said that the IRS is in dire need of a new fraud-filtering system, as the current one has a false positive rate—the proportion of returns that the IRS marked as potentially fraudulent but, in fact, came from legitimate taxpayers—of 81 percent.

“We’ve talked to experts, and a ballpark average for false positives is 50 percent,” she said. “That’s still high, but you don’t want to let fraud go on. You need balance. But if you have 81 percent, there is something fundamentally wrong with your filters. You’re stopping everyone, basically saying that everyone is suspect and we’ll figure it out later ... you need people who can resolve this and sort the information out quickly, and neither of those things are happening.”

Yet this was just one issue among what Olson felt were deeper systemic problems in the IRS filing system. She illustrated by talking about the most recent filing season. She explained that when the IRS receives a return, especially if it’s requesting a refund, it’s run through an income-matching system that compares the information on the return to W-2s and 1099s connected with that taxpayer. If the information matches, the IRS releases the return and issues the refund. If there is no W-2 or 1099, then the return is set aside and retested with the next database update.

Olson said that in 2018, however, the system broke down on two levels. First, the IRS did not receive a lot of W-2s and 1099s by Feb. 15—the earliest it was able to send out refunds—and so a lot of returns were held back. Second, this fact was supposed to have been addressed by the return recycling process the following week, but this did not happen, so “all those returns went into a black hole.”

No one at the IRS was aware that this had happened until her own office was deluged with calls regarding late refunds, with the number of people calling about this issue growing by 287 percent from January to October. Once her office began receiving these calls, the IRS investigated and found out that there were no W-2s and 1099s connected with that taxpaying individual, which meant that the IRS would need to manually recycle the returns and manually upload incoming W-2 and 1099 data as it arrived. This had spillover effects that affected the rest of the IRS.

“If you have manual work, what do you do? You turn to the phones, to the people processing correspondence; ... you take someone off there and put them on uploading this manually to get refunds out,” she said, adding that it wasn’t until the middle of July that “the IRS got through all the returns that had gone through the black hole to figure out if it was a legitimate return or something we needed to freeze.”

“By the time you finish telling me why you can’t do this thing, you probably could have done the thing,” she said. “And I’m at the point where I’m very sympathetic where resources are needed for the kinds of IT stuff we need to bring us into the 21st century. ... We haven’t solved the problem of whether the filters are overscreening, ... so you’re not tormenting legitimate taxpayers who have to wait and wait and wait and wait,” she said.

She also said that the IRS had introduced changes to the private debt collection program, as a result of her feedback. She said that her office had done a study that found that private debt collectors targeted mostly low-income taxpayers who likely would not be able to pay, which was evidenced by a higher default rate than IRS collections agents reported. She said that IRS regulations require the agency to release the levy if a taxpayer cannot afford basic living expenses, though she added that the private collectors don’t have access to the databases that would tell them whether this was the case for the taxpayers they’re calling. So she asked the IRS commissioner to exclude from private debt collection those people on supplemental security income and disability income, as well as those with low income that makes them unable to pay for basic living expenses. She said the commissioner agreed to the former but not the latter.

“The people who are home answering the phone are low income and the elderly and the disabled. If you or I get a call from a number we don’t recognize, we never pick up. So it’s the most vulnerable people who are the ones picking up, and that is why they are the ones getting into [improper] installment agreements,” she said.

On the collections side, she said that her office has also pushed for the IRS to create an economic hardship template that agents could refer to when dealing with taxpayers. It would allow them to look at the taxpayer’s income and compare it to what, under that income, would be allowable living expenses. Olson also talked about her concerns regarding the IRS field audit program. She said that the percentage of audits that call for no changes is between 35 and 42 percent. This means that the IRS wasted time and money on the audit, and the auditor wasted time and money on a CPA to deal with the audit 35 to 42 percent of the time.

In addition, Olson talked about the resource issues at the IRS, and why she didn’t find its arguments that compelling as to why it cannot take action on certain issues.

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She said that, in order to avoid a repeat of this year’s breakdown, the IRS has switched to getting daily, rather than weekly, data updates from the Social Security Administration, so that there will be less chance that a return will go unmatched for too long, which she said solves at least part of the problem.

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SASB releases finalized sustainability standards for investors

By CHRIS GAETANO
Trusted Professional Staff

After seven years of work, the Sustainability Accounting Standards Board (SASB) has released a set of final, codified standards meant to guide investors seeking nonfinancial data related to where a company stands in relation to environmental, social and governance (ESG)-related concerns. David Parham, the SASB’s deputy director of research, explained the intentions behind the new standards and the board’s plans for the future, at an event hosted by the NYSSCPA’s Sustainability Committee at the Society’s Manhattan offices on Dec. 6.

Parham noted that there are many different sustainability reporting frameworks available already, such as those of the Global Reporting Initiative and the International Integrated Reporting Council. The SASB standards, however, are the only ones developed specifically with investors—and only investors—in mind, in contrast to the more wide-ranging stakeholder populations considered by other organizations. The SASB decided to orient its standards this way because, according to Parham, while there is a huge market demand for ESG information, there remains “a disconnect between how well companies feel they are communicating their ESG-related performance and how investors feel the information quality is for them on incorporating that into their actual decision-making process.” This, he said, has to do with companies trying to communicate to too many different audiences, such as “community representatives or government audiences.”

“It’s a different communication style, specifically for investors. … Investors are used to receiving data in their investment decision-making processes. The existing communication channels to get from companies to investors were not filling the need in how to receive this information in a useful format, and that’s really where the SASB comes in,” he said.

To address this shortcoming, he explained, the SASB developed its standards with a certain set of tenets in mind. First, the standards must pertain to financially material matters that directly relate to corporate value creation, so that they’ll be decision-useful. Second, they need to be cost-effective for the companies to report in the first place. Third, they must be industry-specific, as “not all sustainability issues will be material in every industry; the issues an oil and gas company needs to manage might be very different [from] what an apparel company needs to manage.” Finally, they must be evidence-based and transparent in their approach.

Like other standards, the SASB codification has a number of metrics that would need to be calculated. He said that these metrics need to fairly represent performance, be useful to investors, be applicable to the company or industry, be comparable between companies, be verifiable, and be aligned with how the industry generally manages or approaches the topic, with no “judgment in the measurement.”

In order to develop the standards in this way, Parham said the SASB consulted heavily with members of the investment community, who informed the organization on what sustainability aspects they did and did not care about, which sometimes ran counter to the SASB’s initial assumptions.

“Back in the provisional phase of the standards, we had research suggesting water waste efficiency was material in the biopharmaceutical industry. … When we went to consultation, though, the market told us resoundingly that is not the case, and that it should be removed,” he said, adding that whenever the core audience tells the SASB that it has gotten something wrong, “we review our research with them and ask them to help us understand where we went wrong.”

Despite the diverse concerns of investors across different industries, Parham said that the goal is to have a standardized approach to reporting ESG performance that is on par with financial reporting.

“Just as financial performance data is standardized as per financial accounting standards, whether FASB [Financial Accounting Standards Board] or IASB [International Accounting Standards Board], we envision [that] SASB can provide standardized nonfinancial data that lives alongside standardized financial data, giving investors a complete picture of factors they should consider when making investment decisions and how that information goes from company to investor,” he said.

Similarly, Parham said that the SASB does not conceive of itself as being in competition with other sustainability frameworks but, rather, in concert with them, observing that the board’s standards can complement their data.

The codification of the once-provisional standards into a cohesive code, he said, involved synergizing feedback into, ultimately, 429 recommended revisions across all 77 industry standards. However, the SASB will not be sitting on its laurels, according to Parham. Already, the SASB is planning a multiyear revision cycle that will evaluate the implementation of the new standards, as well as develop a research agenda for future projects. Assisting in this effort will be a body of new standing advisory boards of subject matter experts, such as accountants, investors and attorneys. He said the SASB has already seated 100 such experts and, ultimately, wants to seat 100 more. These bodies, he said, will become an integral part of future standards-setting projects.
What’s something about the profession that you learned only after you graduated from college?

CHIMUDI S. EGBUNA | Senior Accountant | Woodbury
The real meaning of busy season, and how much work needs to be done and the hours and dedication you need to get through it—that wasn’t something really expressed in classes at college. I don’t just mean January through April, but also September and October. Basically, for six or seven months out of the year, you’re working these insane hours. Professors would talk about it, but it’s really something that has to be experienced to really understand and appreciate. Internships can do a good job easing you into things—you get a small taste of what’s to come, but it can still be pretty intense once you’ve started your career in earnest. But this is just what the career calls for, what the profession calls for. Make sure your friends and family understand these demands, and be sure to rest appropriately.

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DEBORAH A. KASSIRER | Internal Audit and Advisory Services Director | Buffalo
I went to school a while ago, but the big thing I learned is that grad school does a great job of teaching the fundamentals and stressing the ability to take on many roles once we graduate; however, I think I really didn’t fully appreciate the wide variety of career possibilities that a CPA can have. I think it’s astounding, now that I’ve been in this field as long as I have, how many different paths a CPA can take and the many varied roles a person can have. There’s a wide variety of industries—and roles within those industries—that have CPAs succeeding. In my own experience, I worked for a Big Four firm at first, but now I work in a hospital as an internal auditor. It’s a pretty exciting and rewarding industry, and it’s more than just looking at books.

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ILENE L. PERSOFF | Accounting Professor | Huntington
One thing that comes to mind is the importance of maintaining relationships, not just with other accountants but with finance, management, legal, banking, pension and other professionals. We need to have these relationships so we can understand what it is they are asking for when they need us, and we can better understand what we need from them. More broadly, I emphasize to my students the importance of staying in touch with people in your business classes and accounting courses, because they’re all going to be doing different things after graduation, and you may find that you may need that person sometime in the future.

Another thing is thinking about your career direction, particularly whether you want to be a partner sometime in the future. In my graduate accounting seminar, I ask how many want to become partners, and many of them never thought about it. Many are so focused on whether they’ll have just a job when they graduate versus a career, that it never occurs to them to plan for the long term. But the road to becoming a partner can be long and difficult one, and so if you intend for that to be your ultimate destination, you need to start thinking about that and developing a plan for five or six years ahead that is intended to put you on a partner track at the firm.

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NICHOLAS A. WATKINS | Tax Supervisor | Newburgh
My thoughts in college, and the perception of many other nonaccountants, is that CPAs all—and only—do taxes. How exciting can that be? While my career path may have taken me into tax accounting, I have found that I do so much more than I could have ever expected to know from a classroom.

I’m finding that the most rewarding part of my career is forming and building relationships with my clients and helping them to grow their businesses. I never realized that I would have such an opportunity to positively impact the lives of others. In working closely with many businesses, I feel that I am able to provide them with the advice and expertise necessary to help them be more successful. When you start working with a client, you begin to form a personal bond which oftentimes turns into creating a new friend. I become personally invested in the people I work with, especially when they put their trust in me to help them. One of the best things I can hear from a client is “thank you.” This isn’t your run-of-the-mill email signature thank you, but it’s a genuine sense of gratitude for my time and services. I am grateful my career has brought me to this point. I truly believe that my line of work gives me the power to help people succeed and ultimately provide them with a better quality of life.

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EVELYN B. YANATOS | President of a CFO Consulting Company | Manhattan
What I learned was that there is a wide network of CPAs, and that CPAs are willing to help each other. There are so many industries and sub specialty areas a CPA can participate in, and because CPA training is a great foundation for so many other things, it provides a steady set of opportunities no matter where you decide to go. Once you have the credential, you’re very marketable, no matter what business you decide you want to be in. I even know nurses who worked to pass the CPA exam and now have a successful tax practice in that area. CPAs are always in demand, be it for a financial statement audit, tax advice or in a variety of other services.

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LENORE C. SANCHEZ | Audit Supervisor | Woodcliff Lake, N.J.
Something about the accounting profession that one only learns after graduating college is the significance of the role accounting professionals play and the impact that they have on a client’s business once they are valued as and considered to be a business partner. Another lesson we learn by doing is achieving the status of a trusted adviser in another’s business. Becoming a trusted adviser is not a result of the services one provides. It is an outcome of the way in which knowledge is applied, services are delivered and insights are shared. Staying up to date on industry standards and being in the know as far as what is to come gives one the foresight to be proactive. It enables accounting professionals to strategically prepare their clients for changes that are to come, avoiding what could have otherwise resulted in challenges and possible roadblocks. Having these attributes and consistently applying them contribute to being a trusted adviser. Being considered part of client’s team drives value and is priceless. Learning how to achieve that goal and actually accomplishing it cannot be learned in school, or ever taken for granted!

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Rounding out the year in the Buffalo Chapter

By KEVIN PENNER
Buffalo Chapter President

The year 2018 was a great one for the Buffalo Chapter. Our dedicated volunteers made that possible. The chapter had several events with fantastic turnouts, both recurring and new to our chapter.

Christine A. Learman has been instrumental in helping our members plan events throughout the year. She keeps the bookkeeping and finances of the chapter in order to help us succeed with both new and recurring events. Without this solid foundation, we wouldn't see the success we have had in past years. Mindy R. Elniski started up the Buffalo Chapter Career Opportunities in the Accounting Profession (COAP) program again in 2018. This is a flagship program that gives back so much to the community, which we are all glad is gaining traction again in the chapter. Past presidents James E. Gramkee and Bruce M. Zagoda have been fantastic resources for me during my first term as the Buffalo Chapter president. They always make themselves available whenever I have any questions or need help in the chapter.

Edward R. Steele continues to improve membership in our chapter with his dedication. He has been a direct impact on our membership efforts over the years. Patricia A. McGrath, Patricia A. Johnson, and Edward L. Arcara have been great advocates for the Buffalo Chapter statewide, and they also provide insights regarding statewide happenings from their many years of volunteer experience with the NYSSCPA. Lisa Mrkall has contributed to the Buffalo Chapter in prior years as the secretary and current year president-elect. We are all excited to see her take over the chapter president position in the next fiscal year.

Franco Strangis and Deborah A. Kassirer help keep in touch with our members in industry. They help organize CPE events throughout the year, which always have a great turnout. Without them, the Buffalo Chapter would not have as strong a connection to, or provide enough value for, members in industry. The Buffalo Chapter’s NextGen Committee had a fantastic year, hosting many well-attended events and, in the fall, a first-ever celebration honoring new CPAs in the Western New York area who had obtained their license within the past two years. Kelly Mandeli and Kristen Rohblatt helped make this a reality. This new CPA event was a hit with young professionals, and we hope to continue it in the coming years.

Buffalo has always had strong leaders who strive to further the chapter every year. Thank you to all the volunteers for a great 2018 in the Buffalo Chapter. It is always a pleasure to work with all of you!

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An active start to 2019 in the Nassau Chapter

By ALEXANDER RESNICK
Nassau Chapter President

Happy New Year to all our Nassau Chapter members. As we move forward in 2019, I would like to thank all our chapter officers, directors and committee chairs for all you did last year. Your hard work and dedication gave our chapter a great year. Social and networking events, charity events, technical events and, of course, our Career Opportunities in the Accounting Profession (COAP) program were all amazing, and your hard work is what made them happen. Your continued work in the new year will ensure that the Nassau Chapter remains a great and active chapter.

December did not go quietly in the chapter. It was filled with technical events from various committees to help members get ready for the upcoming tax season, the largest of which was the all-day tax event. I need to extend a special thank you to Robert J. Schaffer, Robert Barnett and the entire tax committee for all the hard work they do for this event. Their months of planning do not go unnoticed or unappreciated.

The new year began with our NextGen committee hosting its Networking in the New Year Event on Jan. 8 at Round 1 Entertainment in Hicksville. Our first major technical event was probably also our largest of the year: our Ethics Event and Annual Town Hall Meeting, on Jan. 9. We were again honored to have Ernest P. Smith, senior partner at Nawrocki Smith LLP, as our speaker for this evening. Prior to the ethics event, we held our annual Managing Partners’ Meeting with NYSSCPA President Jan C. Herringer, President-elect Ita M. Rahilly and Executive Director Joanne S. Barry. This summit offered the opportunity to hear about the direction and plans for the Society, as well as for us to share our thoughts and opinions regarding these matters. The very next night, our Woman’s Focus Group held its post-holiday cocktail party and shoe drive at the Garden City Hotel. On Jan. 31, jointly with the Suffolk Chapter, we held our Annual Networking Event for accountants and other professionals from all over Long Island.

We hope you will join us for the different technical meetings that the chapter’s various committees sponsor in the coming months. While it is still four months away, please save the date of Thursday, May 30 for our 2019 Installation Dinner at the Crest Hollow Country Club. Sponsorships are now available with discounts for early registration. As always your comments, suggestions and questions are welcome—feel free to contact me. arresnick@zweinerpa.com

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Staten Island Chapter holds World of Accounting event

By FRANK J. DE CANDIDO
Staten Island Chapter Treasurer

The Staten Island Chapter held its annual World of Accounting event at the College of Staten Island on Oct. 26, 2018. The event is a forum for high school students from Staten Island and Brooklyn to learn about the accounting profession and to hear from accounting professionals from academia, government, and public and private practice.

Staten Island high schools participating included Monsignor Farrell, Moore Catholic, New Dorp, Notre Dame Academy, Port Richmond, St. Peter’s, Staten Island Tech, Susan E. Wagner and Tottenville. Also participating was Brooklyn’s Fort Hamilton High School. A total of 240 students and administrators attended.

Opening remarks and introductions were made by Staten Island Chapter members Dennis N. Annarumma, Cynthia A. Scarinci and myself. Anthony J. Campanelli, a partner in the Forensic Accounting area of Deloitte, gave a presentation on “Forensic Accounting and Detecting Deception.” Campanelli has over 21 years of experience providing audit, forensic investigation and litigation services to companies and law firms and is a graduate of St. Joseph by-the-Sea High School in Staten Island. His presentation included topics such as fraud awareness, questions during an investigation, and the investigation process.

A round table discussion featured Daniel M. Carbonella, a partner at Daszkowski, Tompkins, Weg & Carbonella, P.C., and Jane Lysowski, a sole proprietor specializing in bookkeeping services. Both described what led them to a career in accounting and the experiences that led to their current positions.

Former Drug Enforcement Administration (DEA) financial investigators Thomas Ollen and Rich Grosfent described their experiences as DEA agents, how they became agents, and the experience needed to secure a job at the DEA. Ollen and Grosfent described the importance of a financial and economic background and how these skills are used and applied at the DEA.

Annarumma, an Ernst & Young associate partner, Scarinci, an associate professor at CUNY College of Staten Island (CSI); and John J. Liguori, a former FBI agent, closed out the event. Annarumma described the hiring process at EY and what students in high school should be doing to get themselves ready for the interviewing process facing them in the next year or two. A major point that he conveyed was the need for students to review their social media to ensure that postings will not hurt their chances of securing a position at his firm or any other firm. Scarinci described the academic requirements needed in order to become a CPA and her role as a professor of accounting at CSI. Liguori described his background, including his career with the FBI as a CPA and his practice today in forensic accounting. He also described fraud schemes and how they exploit accounting systems.

Each section included a robust question-and-answer interaction between the students and the presenters.

I was pleased to participate, along with many members of the Staten Island Chapter, including Dennis N. Annarumma, Daniel M. Carbonella, Rosemarie A. Giovannazzo-Barnickel, Alfred Grillo, Nicholas J. Guastella, Doreen M. Inserra, Gerard J. LoVerde, Daniel Lahage, John J. Liguori, Jane Lysowski, Lillian Padula-Coscia, Cynthia A. Scarinci, Sharon Sica Costanzo and Charles J. Weintraub.

frankd@fjd-cpa.com

Westchester Chapter hosts Legislative Breakfast

The Westchester Chapter hosted a Legislative Breakfast on Nov 13 at the Crowne Plaza in White Plains, during which New York State Senator Shelley Mayer (D), 37th Senate District, presented a legislative update. From left to right: M. Jacob Renick, Foundation for Accounting Education Trustees president-elect; Shelley Mayer; Gwendolyn Horn, Westchester Chapter vice president.

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Staten Island Chapter members at the World of Accounting event. From left to right: Frank DeCandido, Gerry LoVerde, Cynthia Scarinci, Rosemarie Giovannazzo-Barnickel, Nicholas Guastella and Dennis Annarumma.
### FAE LISTINGS

#### ACCOUNTING

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