The U.S. Department of Labor (DOL) is cracking down on companies that try to circumvent federal regulations on overtime eligibility and worker classification, in a push that could hold significant consequences for a CPA’s business clients, as well as for his or her own firm. The department has taken on the hot-button issues in recent months, with a two-pronged attack.

First, in July, it released a proposal that would radically expand workers’ eligibility for overtime. Under current regulations, employees are generally considered exempt from overtime if they meet each of the following criteria: They’re paid a predetermined and fixed salary; they earn $23,660 or more; and they have a job that primarily involves executive, administrative or professional duties. But, after a review mandated by President Obama, the DOL said the wage threshold is unacceptably low and had not been adequately updated since the ’70s. In a fact sheet accompanying the proposal, the department noted that President George W. Bush’s administration had increased the threshold slightly, but called the bump “weak.” As a result, the DOL said, “an exception to overtime eligibility originally meant for highly-compensated executive, administrative, and professional employees” is now applied to lower-level workers, such as fast food and convenience store managers, whose wages would fall below the poverty level for a family of four.

Under the proposed rules, the exemption threshold would be more than doubled, jumping from $23,660 a year to $50,440 a year. In addition, the salary requirement for

Society: FASB’s nonprofit proposal does opposite of what it intends

A proposal by the Financial Accounting Standards Board (FASB) that would radically alter the way nonprofits present their financial information raises more problems than it solves, according to the NYSSCPA. In a comment letter published in August, the Society said the board’s plan was needlessly complex, falling far short of its goal to provide greater clarity, and was even more far-reaching than the board suggested.

The proposal, outlined in the exposure draft, “Proposed Accounting Standards Update—Not-for-Profit Entities (Topic 958) and Health Care Entities (Topic 954): Presentation of Financial Statements of Not-for-Profit Entities,” was released by the FASB in April. The board has presented the effort as an update meant to addresses current issues within not-for-profit accounting, or as board member Lawrence W. Smith said in a statement, a “refresh” that would make “not-for-profit financial statements even more useful to donors, lenders, and other users.” However, according to David M. Rottkamp, a past chair of the Society’s Not-for-Profit Organizations Committee and one

Opinion ............................................................ 2
Advocacy .......................................................... 4
Industry Calendar ............................................. 7
Risk Management ............................................. 10
Tech ................................................................. 11
Personal Financial Planning ............................... 16
Chapter News ................................................... 21

For high school students, a brave new world

Some 200 high school juniors participated in the NYSSCPA’s Career Opportunities in the Accounting Profession (COAP) initiative this year, including these students from the COAP St. John’s University—Queens program. They took a field trip to Broadridge, a provider of investor communications and technology-driven solutions for businesses, in Suffolk County, and were given a tour of its offices and warehouse.
PRESIDENT’S COMMENTARY

An important election for our organization

With a record number of candidates seeking positions on the NYSSCPA’s 2015–2016 Nominating Committee, the Society’s CPA membership will be called upon in the weeks ahead to cast ballots and select several individuals to serve.

There are 17 candidates who filed valid petitions for 9 positions on the committee. As a result, our bylaws dictate that an election must be held to determine who will fill these roles. The 9 candidates with the most votes will join two designees from the Board of Directors in order to form the 11-member Nominating Committee. On the second Thursday of January, for the last 118 years, the Nominating Committee undertakes one of the Society’s most important tasks—selecting its future leaders.

This year, the Nominating Committee will be recommending a president-elect, four vice presidents; a secretary/treasurer; five at-large directors; and directors from the Mid Hudson, Northeast, Queens/Brooklyn, Rockland and Utica chapters. These nominees are then presented to the membership in a proxy ballot that is distributed in April.

The Nominating Committee plays a crucial role in the future of the Society, and it is encouraging to see so many individuals interested in participating in this process. All CPA members of the Society are eligible to cast a vote in this election. A member may choose up to 9 candidates from the list of 17 names.

If you are a CPA member with an email address registered with the Society, for the first time in our organization’s history, you will receive an email directing you to the portion of the Society’s website where you may cast your vote. CPA members who do not have an email address registered with the NYSSCPA will be mailed a paper ballot that must be completed and mailed back to the Society.

If you’re a CPA member of the Society and do not receive your ballot via either of these two methods by Sept. 25, please contact NYSSCPA Public Affairs Manager Robert Busweiler at 212-719-8385 or rbusweiler@nysscpa.org.

According to the Society’s bylaws, all ballots must be received or filed by 5 p.m., Oct. 21.

You can see the candidates’ service histories with the Society on page 8 of this issue of The Trusted Professional or online at http://www.nysscpa.org/about/about-nysscpa/nomination-center/nominating-committee-vote-2015.

At this time, I would also like to remind anyone who is interested in serving on the Board of Directors next year to begin putting together any information you may want to submit as part of your expression of interest. If you are interested in submitting a nomination for the chapter representative board positions, please first contact the respective chapter president; chapter presidents’ contact information is available in the chapters section of the NYSSCPA website, nysscpa.org.

In order to serve on the Board of Directors, you must have been a CPA member of the Society for at least five years and have at least two years of service, either on a statewide committee, a chapter executive board, or a combination of both.

Joseph M. Falbo Jr.
Nonprofit

Continued from front page

of the comment letter’s authors, when taken as a whole, the changes are less than a tuneup than a complete overhaul of how organizations will present their financial information. “It’s a lot more extensive than just an update to the standard,” he said, adding that, if implemented, the changes would require a significant amount of education for CPAs who work in the not-for-profit sector, as well as for not-for-profits themselves.

One indication of how sweeping the proposed changes are is the sheer number of CPA experts the Society assembled for its response. The NYSSCPA’s comment letter was drafted by a 15-person task force that included members of both its Financial Accounting Standards Committee and Not-for-Profit Organizations Committee, each of whom has extensive experience in technical analysis, nonprofit organization accounting, or both, Rottkamp added.

While the task force found fault with several aspects of the draft, its chief overall objection was that the proposal was simply “too complex to function.”

“We spent a lot of time discussing the proposal—and came up with a lot of interpretations of what it meant,” Rottkamp said. “To have a room full of people as experienced as the people on the task force not be able to agree on what the exposure said, means it’s not clear.”

One of the more significant revisions in the exposure draft is to how assets will be measured and reported. Under the current model, the use and purpose of assets are conveyed by reporting them in one of three classes: unrestricted, temporarily restricted or permanently restricted. The proposed standard, however, would collapse these three classes into two: net assets with donor restrictions and net assets without donor restrictions. Changes in net assets without donor restrictions would be further divided between those that arose from external factors (gains and losses, expenses, support, etc.) and those that came from internal actions (appropriations, internal transfers, etc.).

The FASB proposal also calls for a major about-face in cash flow reporting, namely, by requiring organizations to switch from using the indirect method of reporting (adjusting changes in net assets to reconcile that amount to net operating cash flow) to the direct method (reporting the sum of gross cash receipts and gross cash payments from operating activities). These same cash flows would then be divided into operating cash flows, financing cash flows and investing cash flows.

“The Society, however, felt that what does and does not count as operating income won’t always be so clear, and to pretend otherwise is to ‘create false differentiation’ between the two, resulting in an overly complex presentation that hinders the goal of comparability. For instance, many not-for-profit organizations generally consider investment income that is available for exempt activities to be operating revenue. The FASB, however, feels that it should be classified as investment revenue, since that investment is not part of the organization’s mission.

“The people who set up these foundations put money aside for the specific purpose of funding operations,” Dyson said. “How do you say that’s not operating? The change adds to complexity, causes confusion and makes a foundation appear poorer than it really is. We couldn’t see any benefit in it, frankly.”

Moreover, the Society expressed confusion as to why the proposed standard would change cash flow reporting from the indirect to the direct method. Rottkamp said there was no clear reason why the FASB would suggest this.

“That’s not required anywhere across other industries or other organizations,” he said. “In our opinion, this makes our statements less comparable to others.”

The comment period for the exposure draft closed on Aug. 20. To read the Society’s letter in its entirety, visit nysscpa.org/advocacy/comment-letters.

Correction
In the “Lifetime Members” listing that appeared in the August 2015 issue of The Trusted Professional, we incorrectly described those who had been acknowledged as having belonged to the Society for 45 years. The list included members who have belonged to the NYSSCPA for 46 years or more. We regret the error.
CPAs score Form 990 victory

BY CHRIS GAETANO
Trusted Professional Staff

CPAs at exempt organizations have a bit more breathing room, thanks to a new law that implements an automatic 60-day extension request process for Form 990 tax filings—a change the NYSSCPA first recommended in 2014.

The measure was part of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, which the president signed in July. Previously, nonprofits that needed additional time to file the Form 990 had to submit a three-month extension request. If even more time was needed, they would have to file a second, separate request thereafter. Under the new law, however, that process has been replaced with a single filing that, if approved, grants a six-month extension.

In a comment letter written by members of its Exempt Organizations Committee and published in 2014, the NYSSCPA criticized the old procedures as cumbersome and inefficient. Further, the Society argued that the system was confusing, as the deadlines weren’t in conformance with what’s allowed on other forms. For example, charities, it noted, can receive a six month extension on their Form 990-T by only filing once, but have to file twice to get an extra six months on their Form 990.

The Society also argued that a single six-month extension process would help practitioners avoid unnecessary penalties and save the IRS time and money.

“We thought the former process of filing and awaiting approvals, of separate three-month extensions, was an unnecessary burden for nonprofit groups and additional workload for the IRS,” said Joanne S. Barry, the Society’s executive director and CEO. “We made the suggestion to update the process to only a single six-month extension, and Uncle Sam agreed.”

Indeed, according to members, the change was a positive step that reflected clear demands made not only by the Society, but by nonprofits across the country.

“We have been instrumental in changing the law for nonprofits nationwide. Although we were likely not the only group to request this, there was definitely an obvious juxtaposition between our resubmission and the new law,” said S. Ethan Kahn, an Exempt Organizations Committee member.

In its 2014 letter, the Society also suggested that corporate, partner, individual and fiduciary returns move to a single extension for the maximum amount of time allowable associated with their federal returns. In New York, charitable and exempt organizations were recently given a 180-day extension for filing their reports.

The following list includes all comment letters released by the NYSSCPA between Aug. 1 and Aug 31. To read all comment letters published by the Society, visit nysscpa.org/page/society-comment-letters.

Comments to the PCAOB on Release 2015-004 — Supplemental Request for Comment: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form (Docket Matter 029): Released Aug. 31 — Comments on this supplemental request for comment on the PCAOB’s 2013 reproposal to require auditors to disclose in the auditor’s report the name of the engagement partner and information about certain other participants in the audit. The PCAOB is considering an alternative to disclosure whereby the information would be required to be disclosed on a new PCAOB form.

Comments to the FASB on a Proposed Accounting Standards Update — Not-for-Profit Entities (Topic 958) and Health Care Entities (Topic 954): Presentation of Financial Statements of Not-for-Profit Entities: Released Aug. 20 — Comments on a proposed accounting standards update, the objective of which is to improve the current net asset classification requirements and the information presented in financial statements and notes about a not-for-profit entity’s liquidity, financial performance and cash flows.

Comments to the FASB on a Proposed Accounting Standards Update — Compensation — Stock Compensation (Topic 718): Improvements to Employees Share-Based Payment Accounting: Released Aug. 14 — Comments on a proposed accounting standards update, the objective of which is to simplify several aspects of the accounting for share-based payment transactions, including the income tax consequences, classification of awards as either equity or liabilities, and classification on the statement of cash flows.

Comments to the FASB on a Proposed Accounting Standards Update — Investments — Equity Method and Joint Ventures (Topic 323): Simplifying the Equity Method of Accounting: Comments on a proposed accounting standards update that would eliminate the requirement to separately account for the basis difference of equity method investments and make other simplifying amendments to the equity method.

BUD ROSNER MEMORIAL LONG ISLAND ESTATE, TAX & FINANCIAL PLANNING CONFERENCE

Presented by UJA-Federation of New York

Wednesday, October 21, 2015
8:00 a.m. - 5:00 p.m. Conference  5:00 p.m. - 6:00 p.m. Hors d’oeuvres and cocktails
Crest Hollow Country Club  8325 Jericho Turnpike, Woodbury, New York

HOT TOPICS

- Life Insurance Trusts
- Portability – Using and Protecting It
- The Use of Disclaimers as a Post-Mortem Estate-Planning Tool
- Estate Planning for Asset Protection and Preservation

FACULTY

John J. Kearney, C.P.A.

Conference Fee: $260* per person for e-flyer (flash drive) $340* per person for physical binder
Walk-in Registration (if available): additional $25
For more information or to make a reservation, contact Earl A. Ziegler at 516.677.1830 or zieglerb@ujafed.org.
Register online at www.ujafed.org/pga-long-island-conf.

The world’s largest local philanthropic, UJA-Federation of New York, cares for Jews everywhere and New Yorkers of all backgrounds, connects people to their Jewish community, and responds to crises — in New York, in Israel, and around the world.
DOL Directives

Continued from front page

determining who counts as a “highly-compensated employee”—a category that is also exempt from overtime rules—would be increased from $100,000 a year to $122,148. Both thresholds would be automatically adjusted every year, either by a fixed amount, yet to be determined, or alongside the consumer price index.

Although, in its proposal, the DOL discussed the possibility of counting nondiscretionary bonuses as part of salary and solicited feedback on the nonsalary portions of the three-part exemption test, the department did not propose any specific regulatory changes on either matter. The open comment period for the proposed rules ended on Sept. 4.

Just a few weeks after it published the proposed overtime rules, the DOL released a 15-page memo intended to clarify who, exactly, is considered to be an employee and who is an independent contractor.

The misclassification of employees as independent contractors, the DOL wrote, was an increasingly common affair, in part because of widespread business restructurings. But the consequences, it said, can be deeply impactful, not only for the employees who are denied workplace protections, but for the government, which could see lower tax revenues, as well as for the businesses that do follow the rules, since they may encounter an uneven playing field.

In the past, determining the difference between employees and independent contractors often hinged upon what’s called the “control test,” which asks: To what degree is the business able to control the worker and the nature of the work that he or she does?

But according to the DOL, while the control test should still be a factor, it shouldn’t be the only one. Instead, the department wants businesses to use several different standards that fall under what it calls the “economic realities test,” which focuses on whether the worker is economically dependent on the employer or is in business for himself or herself. A worker who is economically dependent on an employer would be considered an employee.

Questions used in the test include, “Is the work an integral part of the employer’s business? Is the relationship between the worker and the employer permanent or indefinite? What is the nature and degree of the worker’s control?”

When employers go through the process, the DOL said, they’ll likely find that “most workers are employees.”

Assessing the impact

All told, the two directives will affect millions of workers and their bosses. The DOL estimates that just under 5 million workers who are currently ineligible for overtime will be folded into the proposed regulation, and an additional 2 million will be eligible for health care and other benefits. What’s more, according to a report released by the U.S. Government Accountability Office (GAO) in April, independent contractors are a sizable part of the workforce, making up 12.9 percent. Contingent workers, as a whole, make up 40.4 percent.

Still, sources predict that the more difficult adjustment for employers will likely be the proposed overtime rules, as the classification guidelines are less of a departure from existing practice.

Avery E. Neumark, who is the partner-in-charge of his firm’s employee benefits and executive compensation practice, said that while the classification guidelines reflect a “more aggressive position” by the government, the economic realities test isn’t substantially different from the control test that employers had already been using.

“What the guidelines do, he continued, is underscore that if businesses want to classify someone as an independent contractor, they had better be certain that it’s the true nature of the relationship, which means they would essentially use the W-2 worker as their baseline.”

Peter H. Frank, chair of the NYSSCPA’s Entertainment, Arts and Sports Committee, agreed that the classification guidelines were not all that different—the rules, he said, have erred on the side of treating workers as employees rather than independent contractors for quite some time. He did, however, note that the DOL’s guidelines may change how people look at those who work from home.

“Many [employers] think, ‘Well, they’re working out of their home, so we’re not controlling them,’ but if the nature of the work they perform is no different than what they would be doing if they were coming into the office, businesses need to be careful,” he warned.

But when it comes to overtime eligibility, many employers and their accounting staffs have said that the pending expansion won’t come easily and could trigger a number of unintended consequences as businesses try to cope.

For one thing, said David G. Young, a managing partner in the Rochester area, the measure will disproportionately impact small businesses, which may end up reconsidering whether or not to hire employees or grow their companies, in the face of increased costs.

Small business owners, he said, “may ask themselves, ‘If I pay all this overtime out, why own a business?’ and, as a result, could [make] decisions that will ultimately have the opposite effect of what the government wants.”

Another possibility, according to Scott Sanders, co-chair of the Nassau Chapter’s Small Practice Unit MAP Committee and a managing partner at his firm, is that companies may rethink their scheduling practices to avoid tripping the overtime regulation. For example, he said, because overtime must be paid on the regular payday for the pay period in which the wages were earned, “the employer can either delay giving the work to this employee until the subsequent week, or give the work to another qualified employee whose hours are under the 40-hour work week.”

Moreover, the increased costs may be passed on to consumers, as entities look to minimize the impact.

David J. Wolfson, a past chair of the NYSSCPA’s Hospitality Industry Committee, said that he recently met with a client who owns several fast food franchises and had already concluded that he would have to raise prices to comply with the proposal. In addition to the new overtime rules, Wolfson pointed out, the restaurant and hospitality industry is experiencing mounting wage pressure on other fronts, including the recent move by New York state to increase the minimum wage for fast food workers.

Though Wolfson did feel that the overtime exemption was due for an update, and that the

In 2014, President Obama told the DOL to update the regulations that outline which workers are protected under Fair Labor Standards Act minimum wage and overtime rules.

See DOL Directives, page 7
SEC approves controversial Dodd-Frank pay disclosure rule

BY CHRIS GAETANO
Trusted Professional Staff

The boss will always make more than the workers, but under a regulation recently adopted by the Securities and Exchange Commission (SEC), a company’s employees and investors will now be able to determine how much more.

The rule, which the commission passed in a 3–2 vote on Aug. 5, requires public companies to make three additional disclosures in their annual filings: the median of the annual total compensation of all employees, excluding the CEO; the annual total compensation of the CEO; and the ratio between the two. Companies would have to report the information for their first fiscal year beginning on or after Jan. 1, 2017.

The provision had been included in the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act, but its final approval was subject to delays—as has often been the case with measures tied to the legislation. A progress report published this summer by the law firm Davis Polk & Wardwell LLP, marking the fifth anniversary of Dodd-Frank, found that, as of July 15, 21.3 percent of the law’s 390 total rulemaking requirements had not yet been proposed.

Still, the pay disclosure rule, which garnered more than 287,000 comment letters before it was passed, was particularly contentious.

Will flexibility aid compliance?

In terms of cost and complexity, Commissioner Kara M. Stein said that the final rule provides companies with enough flexibility that it would not present an undue burden for businesses.

The rule does, in fact, allow significant wiggle room for companies to determine who will be counted when calculating median employee compensation. According to David M. Rubenstein, a Chief Financial Officers Committee member who is a partner at WeiserMazars LLP, and chair of its SEC Practice Group, an overly complicated mandate that proved difficult to follow wouldn’t serve businesses or the SEC itself. Instead, he said, the commission seemed to be open to any methodology that seemed reasonable.

Indeed, according to an SEC fact sheet, companies can “select a methodology based on their own facts and circumstances.” For example, a company could choose to determine a median based on every employee, use a statistical sampling of its workers or employ any other method that would be viewed as justifiable.

The company could also decide to apply a cost-of-living adjustment in identifying the median employee, but is not required to do so.

There’s also some latitude in how entities determine who is an employee. While companies do have to include all full-time, part-time, temporary and seasonal workers, whether employed directly by the entity or any of its consolidated subsidiaries, they are allowed to exclude independent contractors or those employed by unaffiliated third parties. They will be able to exclude up to 5 percent of their non-U.S. workforce, including those who work in countries where data privacy laws would prevent them from obtaining the relevant information, and can also choose to annualize the total compensation for a permanent employee who didn’t work for the entire year, such as a new hire.

In addition, they have a wide range of choices regarding over what time period this calculation is made. Under the rule, entities can select a date within the last three months of their last completed fiscal year to determine the employee population. The calculation only has to be updated every three years, unless the company experiences major changes in its employment base.

The rule’s elasticity, however, generates its own concerns. Rubenstein pointed out that the very exceptions used to make the rule more flexible might be a source of complexity for certain companies. Although, on the surface, it would seem easy enough to extract data en masse directly from payroll, consis-

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be difficult to compare one entity’s ratio to another. Beck pointed out that pay structures can vary significantly, not just between companies but entire industries. Take, for example, a utility. Since it may be slower growing and have lower compensation levels than, say, a rapidly growing tech company, seeking comparability between the two, Beck said, “will be based on relative information and industry information.”

What’s more, Beck added, at the executive level, compensation is usually closely tied to various performance incentives that, again, can differ significantly from company to company. Packages, he said, are often centered, not around salary, but stock-based compensation, and can “reflect someone who is not doing well, or someone who is.” The bottom line: The ratio might not be telling the whole story.

Still, Rubenstein was confident that, while comparability will be a bit more difficult, it’s certainly possible, especially since companies also have the option of providing a narrative explanation of their ratios, which might help people understand the individual factors behind the calculations.

“If I was an analyst, if I was a trader in stocks or anything relative to the market and performance for companies … I would want to understand why this CEO makes so much more money relative to their employee base vs. this other one,” he said. “It may impact one’s desire or consideration to buy or not to buy.”

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salary level proposed “seems fair,” he called the DOL’s estimate that between $1 billion to $2 billion will be transferred from employer to employee salary as a result of the proposal “staggering.”

Angelo Amador, the senior vice president of labor and workforce policy at the National Restaurant Association, had even stronger words for the measure, which he characterized as “a bad idea” that doesn’t take regional differences into account.

“While $50,000 is something that a restaurant manager in, let’s say, New York City or San Francisco will easily meet, the feedback I’m getting is in rural areas of the country, they would not [be able to] meet that,” he said.

Amador added that some restaurants may simply shift their managers from salaried to hourly work, and that the regulation may accelerate the ongoing trend of automating restaurant service, since owners might find it cheaper to get new technology than to pay the increased overtime.

Hitting home?

But it may not just be a CPAs clients that are affected by the proposed overtime rules. Sanders said that CPA firms themselves, especially smaller ones, would also be impacted. After all, he pointed out, smaller firms have a higher percentage of administrative staff whose wages fall under the $50,440 threshold.

As a result, he explained, firms may need to consider taking on additional staffing in order to keep the administrative workers under the 40-hour threshold—particularly during busy season—and keep the firm’s payroll costs to a minimum. While that would bring another set of costs for training, extra software licenses and even desk space, he added, it would likely be lower than the cost of actually paying out the overtime under the proposed regulation.

Firms, he said, would need to simply brace themselves and “include these additional costs when factoring in fee increases for 2016.”

Young agreed that the overtime proposal could be an issue for CPA firms, adding that he doesn’t know anyone in his practice who works fewer than 50 hours a week during tax season. Though he said his own firm has been paying overtime, and that it generally wouldn’t be affected by the potential regulation, he believed others would see increased costs and, possibly, legal challenges.

This would not be without precedent: Within the past few years, the Big Four firms KPMG, Deloitte and PricewaterhouseCoopers have all been targets of class action lawsuits that alleged they did not pay their audit associates for overtime.

The Deloitte case was dismissed in 2012. When the plaintiffs attempted, this past September, to get it re-certified, a federal judge denied the motion, saying that they were too varied in level of supervision and duties to consider the case as a class action. The KPMG case was dismissed by an appeals court last year after a judge concluded that as “learned professionals who perform work requiring advanced knowledge,” the associates were exempt from overtime under the Fair Labor Standards Act. And PwC settled its case in February 2015, making a gross payment of $5 million.

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From the Cover

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UPCOMING INDUSTRY COMMITTEE MEETINGS

Real Estate
Internal Audit
Entertainment, Arts and Sports
Chief Financial Officers
Investment Management
Emerging Tech Entrepreneurial

Wed., Oct. 14
Wed., Oct. 21
Wed., Oct. 28
Wed., Oct. 29
Tues., Oct. 29

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

Interested in joining a committee? Fill out an application online or contact Nereida Gomez, Manager, Committees, at 212-719-8358 or ngomez@nysscpa.org, to find out more information.

UPCOMING CONFERENCES

Construction Contractors Conference
Alternative Investment Fund Conference
Real Estate

Wed., Oct. 21
Thurs., Nov. 5
Wed., Dec. 16

Visit nysscpa.org/construction15 or call 800-537-3635 to register!

DOL Directives
Continued from page 5

Construction Contractors Conference
Construction Industry Insights from New York’s Top Thought Leaders
10.21.15

• A Top-to-Bottom Review of Complex Tax Issues Facing the Construction Industry Right Now, Including New Cases and Private Letter Rulings

• A Fresh Look at Opportunities for Growth, Profit, and Stability

• Life After the Business: Learn the Ins and Outs of Succession Planning and How to Set Up a Successful Employee Stock Ownership Plan (ESOP)

• Plus: A Lunch Session Update from the General Contractors Association (GCA)
The following pages include biographies of the 17 candidates who are interested in serving on the NYSSCPAs 2015–2016 Nominating Committee. CPA members of the Society are asked to select nine applicants from this list, and will receive an email with a link to an online voting portal to make their selections. If they have no email address on file, a paper ballot will be sent to their mailing address. To go directly to the voting portal, visit http://bit.ly/nysscapavote15. Ballots must be received by 5 p.m. on Oct. 21 in order to be counted. If you have questions about the voting process, please contact NYSSCPA Public Affairs Manager Robert Busweiler at 212-719-8385 or rbusweiler@nysscpa.org.

FRANK J. AQUILINO, Acting Associate Dean for the School of Business, Montclair State University, Montclair, N.J. Member of the Society since 1976. Member of the Staten Island Chapter. STATEWIDE: Past member of the Board of Directors as Vice President, Treasurer and member of the Executive Committee. Past Chair of the Audit, Annual Leadership Conference, Finance and Professional Liability Insurance committees. Past member of the Chapter Relations, Education in Colleges and Universities, Members in the Field of Education, Nominating and Tax Education committees. Past Government Relations Director. CHAPTER: Past Staten Island Chapter President, President-elect, Treasurer and Executive Board Member. Past member of the Staten Island Chapter Education and Government Relations committees.

BARBARA E. BEL, Partner, O’Connor Donies LLP, Harrison, N.Y. Member of the Society since 1989. Member of the Westchester Chapter. STATEWIDE: Previously served on the Board of Directors as a Director as a Chapter Representative for the Westchester Chapter and as a member of the Executive Committee. Current member of the Closely Held and S Corporations Committee. Current member of the Dues Restructuring Task Force. Past member of the New York, Multistate and Local Taxation Committee. Past Vice President of the NYSSCPA Political Action Committee Board of Trustees. CHAPTER: Past Westchester Chapter President, President-elect, Vice President, Secretary and Treasurer. Past member of the Westchester Chapter Executive Board. Past Chair of the Westchester Chapter Government Relations and Public Relations committees. Past Vice Chair of the Westchester Chapter Budget Committee. Past member of the Westchester Chapter Economic Development and Education and Programming committees.

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War story: Never overlook a hidden stakeholder
When an absentee owner is left out of negotiations, CPAs are taken to task—and to court

BY RON KLEIN, J.D., CFE

Editor’s Note: “War Stories” are drawn from the claims files of Camico, a CPA-directed insurer and risk management program for accountants. All names have been changed.

Outland Property Co., the owner and manager of large tracts of land in the Rocky Mountains, leased a mountain slope on a percentage-lease basis to Sugar Pine Ski Resort. Sugar Pine, in turn, built chair lifts and a ski lodge, providing skiers with rental equipment, lessons and meals.

The lease agreement specified that a percentage of receipts from the lift tickets, rentals, lessons and food sales would go to Outland. Any further modifications to the agreement would have to be negotiated by Outland and Sugar Pine.

Over a 20-year period, Sugar Pine grew steadily into a major ski area. The company added condominiums to the property, as well as restaurants, retail shops and spas. The ski lifts and slopes were enhanced and expanded to the point where Sugar Pine was able to host major ski championships, from which it received fees from corporate sponsors. Income paid from Sugar Pine to Outland were increased by about $400,000 per year over the 10-year period, totaling about $4 million. Sugar Pine then sued its CPA for failing to correctly determine the amounts payable under the lease agreement.

Loss prevention tips
The absentee owners were represented by a management team that did not adequately include them in the lease negotiations. The resulting agreement appeared to neglect the best interests of the elderly retirees, who turned to their own CPAs and attorneys to rectify a perceived wrong. In cases like this, the CPA should—

• determine, on an annual basis, who the stakeholders are in an engagement and make certain that they are receiving copies of the audit or other work, especially if the stakeholders are third-party beneficiaries of the work;

• insist in writing that all parties in a transaction, including hidden stakeholders, use legal counsel to represent their own unique positions. One size attorney does not fit all parties;

• consider having all parties involved afford all of the same protections under the agreement;

• have an attorney review the language in the agreement, vis-à-vis the actual business operations, and give an opinion to the firm about how the document should be interpreted;

• use the engagement letter to clearly define responsibilities, possibly excluding specific areas. Ron Klein, J.D., CFE, is risk management counsel for Camico (www.camico.com). He has been with the company since its inception in 1986 and managed the claims department for 20 years.

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

Thanks to Our Sponsors
Signing a technology contract?
Don’t do it without asking these questions first

BY JOEL LANZ, CPA/CITP, CFF, CISA, CISM, CISSP, CFE

outsourcing technology—whether shifting IT services to a vendor or taking advantage of a slew of automated processes afforded by cloud computing—has never been more popular. It’s a frequent topic in accounting literature and a prominent talking point for presenters at accounting conferences. But, as with any business opportunity, in order to realize the benefits, entities must first reduce risk to a tolerable level reflective of their risk appetite. In other words, outsourcing IT requires a close reading of the fine print and a careful consideration of both the company’s expectations and the vendor’s realities. Here are key questions that your company or client should ask before signing on the dotted line, as well as a few examples of how CPAs can help to mitigate problems that might arise.

Question no. 1: Exactly how much will this cost?
Why it matters: While, in theory, the first vendor invoice should never come as a surprise to the buyer, in practice, it frequently does. For one thing, technology contracts often require some sort of fee calculation that incorporates a flat price and additional fees based on variable factors. These factors might include, among other things, the number of transactions processed or the number of customer accounts, in addition to annual maintenance charges. As a result, it’s critical that the buyer understand the range of potential costs for the service purchased and all that it entails.

How CPAs can help: You’re well positioned to assist clients in understanding and verifying charges so that expenses can be appropriately considered in the client’s financial plans.

Question no. 2: What are we buying?
Why it matters: You’ll be surprised how often flashy user interfaces get in the way of rational decision making. Don’t be fooled by a slick presentation—before signing the contract, clients should always make sure they have a solid idea of what they’re buying. Are you getting the same software that was demonstrated? Will the version you ordered perform the functions you want, or will it require expensive add-ons? That’s particularly important, since clients may choose one type of software over another because of the unique features they believe it provides.

How CPAs can help: By having clients clearly define both their reasons for contracting the technology as well as their expectations, you can help ensure that desired functions are included in the contract.

Question no. 3: Will my data — especially confidential information — be safe?
Why it matters: You can’t assume that a high level of security is a given. Some vendors do offer enhanced security services—for example, they might provide customers with reports on testing performed by independent third parties, including, but not limited to, Service Organization Control (SOC) reports. But in other situations, clients will want to include right-to-audit clauses that enable them to go onsite and verify conformance with contract provisions.

How CPAs can help: You can help clients interpret the types of reports provided, identify potential gaps that could result in residual risks and, if needed, assist in providing assurance over vendor practices through on-site observation.

Question no. 4: How can we learn how to best use the technology we’re buying?
Why it matters: Lots of businesses have purchased technology that they thought would transform their operations but, when actually implemented, fell far short of expectations. One oft-cited cause of disappointment: that a company’s employees are unable to take full advantage of the new program or product because, well, they don’t know how. The availability of training materials, including webinars and guides, and their cost should be a significant consideration prior to signing any technology contract.

How CPAs can help: You can help clients evaluate the quality of materials provided, assess gaps in employee skills, and help develop training and awareness programs in order to realize business benefits.

Question no. 5: What happens if we change our minds?
Why it matters: Even with the best due diligence, the client may decide to change technology providers either during the contractual term or upon its termination. How that transition unfolds—the transferring of data, continuation of confidentiality obligations and penalty charges—should be clearly laid out. Entities should especially be on the lookout for auto-renewal clauses where contracts are automatically extended unless specific action is taken by the client.

How CPAs can help: You can support your company or client by developing appropriate mitigating controls that should be included in the contract.

Question no. 6: Have our attorneys reviewed what we’re signing?
Why it matters: Because you or your clients are signing a legally binding contract, it’s always a good idea to seek advice from a competent attorney. In addition to protecting a client’s legal interests, an attorney can develop the necessary business clauses to help ensure that desired objectives are achieved.

How CPAs can help: CPAs can assist their clients in specifying business requirements; develop training and awareness programs in order to realize business benefits.

Question no. 7: How do we know what’s being charged?
Why it matters: For one thing, technology contracts often require some sort of fee calculation that incorporates a flat price and additional fees based on variable factors. These factors might include, among other things, the number of transactions processed or the number of customer accounts, in addition to annual maintenance charges. As a result, it’s critical that the buyer understand the range of potential costs for the service purchased and all that it entails.

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How can sole practitioners and small firm owners stay competitive?

Alan J. Straus  |  Sole Practitioner, New York

I think that in order to remain competitive, you have to develop a specialty. Mine, for example, is tax matters. I don’t do audits or bookkeeping engagements or that kind of traditional work; I specialize in defending people before the IRS and doing tax planning for those who are either looking to sell a business or make investments. As both a CPA and an attorney, I also provide a one-stop shopping experience—in other words, if someone is looking for estate planning, I can draft the will, draft a trust for when that client passes away, file the estate tax return and do the probate in court. What some might need a whole team of professionals for, I can do on my own.

Because I specialize, a lot of my clients are referrals from other professionals who bring me in when they need my expertise. For instance, next week I have a meeting with a colleague who’s representing a client in a tax audit that seems to be going badly. I’ve come to be known as the guy you go to when you have tax questions or problems.

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Rosemarie Giovannazzo-Barnickel  |  Sole Practitioner, Staten Island

Having a niche practice helps. I specialize in audits of employee benefit plans and small not-for-profit organizations. Since all of my clients are obtained through referrals from other CPAs, I stay very involved with the NYSSCPA, at both the chapter and state level, and make it known that I focus on these areas. Accordingly, when my colleagues at one of the CPA firms with a heavy concentration of tax work—for which there are many on Staten Island—have clients who need these types of audits performed, they will refer them to me or hire me on a consulting basis. And they never have to be concerned that I will try to take their clients’ tax work, as I do not do tax at all.

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Martin M. Shenkman  |  Sole Practitioner, Rockland

With creativity, technology, collaboration and the right specialization, a sole practitioner doesn’t need to shrink away from the big boys. Instead, you can be the David to their Goliath.

Sole practitioners can think outside the box and be more creative, in many cases, than some of the big firms. They can also provide tailored services that others may not be able to—or may not wish to. For instance, when large firms do estate planning, which is my specialty, they do an incredible job technically, but they don’t always get to the heart of a particular client’s human or personal issues. Technology is also a major equalizer. Today there are systems that allow you to do things that, until recently, were very expensive. I have an app that transcribes voice messages to my inbox; another that turns faxes into emails; a mobile hotspot, so I can always be connected; and Web conferencing software, so I can meet with clients whenever I need to. All of this enables me to be nimble and work from anywhere, rather than being tied to any one location. It also enables me to give a high level of response to clients.

Before any of these things, though, you need to have a specialty. You can’t be all things to all people, especially if you want to compete with the big firms, who have experts in every area. So, choose a specialization that lets you compete with those experts, instead of trying to take on each and every one.

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Steven M. Kaplan  |  Sole Practitioner, White Plains

Taking full advantage of technology is important. It makes you efficient, so that you can get things done faster and cheaper and, in a world where everything needs to be value-oriented toward the client, that can give you a strong advantage, not only in terms of the work, but also in terms of cost. The combination of the two results in a client paying more for valuable advice and less for necessary, but not perceived as valuable, tasks, such as bookkeeping, data procurement and data entry. From a professional’s perspective, it also allows you to spend more of your time on things that are most enjoyable. There are a lot of great data-aggregation tools that let you obtain and organize client information in different ways. Portals, too, are very helpful, as far as getting information and sharing work. I do a lot of work in the dispute resolution area, including collaborative divorce and collaborative business disputes, and portals help to keep everyone on the same page, as they can all view the same information at the same time. Using innovative technology also encourages clients to take advantage of it themselves, so they’re more efficient and run their businesses better, which can mean better business for you, too.

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How charities can avoid misleading fund-raising appeals

BY LUANA K. LEWIS

T
through fund-raising solicitations, charities inform donors about how supporting their activities will advance their missions. To a great extent, these missions are the core reason why they are tax exempt under IRC Section 501(c)(3).

But when charities fail to explain their activities accurately and adequately, they may mislead donors and potentially attract negative scrutiny—or even regulatory action.

Indeed, if a charity misleads donors through fund-raising appeals, it might be sued by the New York Attorney General’s Charities Bureau. For example, on July 21, the attorney general’s office issued a press release announcing that it had filed a court action to “shutter” the National Children’s Leukemia Foundation, after an investigation revealed that the organization “did not conduct most of the programs advertised on its website and in its solicitations.”

This case illustrates the following point: You might lose your ability to operate in New York if you don’t conduct solicitations with transparency, integrity and accuracy.

Recent state actions against New York charities have also made it clear that the attorney general’s office can and will hold charity officers and board members responsible for fund-raising misdeeds.

In some cases, fund-raisers may not recognize that their solicitations could be considered misleading. These situations typically come about when fund-raisers use imprecise, incomplete or inaccurate language, or graphic designs to illustrate how a donor’s money will be used by a perfectly legitimate charity. Even large and sophisticated charities can make big mistakes by failing to vet solicitation language and images carefully.

Fund-raising appeals are increasingly conducted in new formats such as social media channels, which can make adequate disclosure at the point of solicitation very difficult. This marketing challenge does not relieve a charity of its obligation to disclose, upfront, the terms and conditions that might reasonably affect a donor’s decision to give. In a commercial marketing transaction, “clear and conspicuous disclosure” at the point of purchase is what consumers and regulators expect. The same general principles apply to charitable donations, which are also exchanges of a sort.

According to the Better Business Bureau’s (BBB) Standards for Charity Accountability, a charity should “have solicitations and informational materials distributed by any means that are accurate, truthful and not misleading, both in whole and in part.” Problems can occur when charities fail to consider that a fund-raising appeal may be literally truthful in its wording yet still be misleading, however, because it omits critical information, uses a graphic representation that creates a false impression or is inaccurate in some other way.

On July 21, the attorney general’s office issued a press release announcing that it had filed a court action to “shutter” the National Children’s Leukemia Foundation, after an investigation revealed that the organization “did not conduct most of the programs advertised on its website and in its solicitations.”
Recommendations for charities

- Be accurate when using stories and images in appeals. Successful fund-raising solicitation often use a story to encourage a donor’s emotional connection with the charity’s work. Impact case stories should refer to genuine individual cases, rather than amalgams of cases. Photos and results descriptions should be current; anything over three years old should disclose the actual time period involved.

- Include a current program description. All appeals—even renewals—should include a clear description of the charity’s recent activities. Don’t assume that the donor knows what your organization has been doing lately.

- Watch out for timing expectations. Urgent appeals, especially after a disaster, can provide potential donors with the expectation that funds will be spent just as quickly as they are raised. If that is not the plan, be clear right upfront about the timing of the charity’s expected actions, as well as all potential uses of funds. This will help to ensure that donors do not feel misled, and can also help guard against serious reputational or regulatory problems.

- Document all fund-raising claims. There’s a simple mantra that can help serve as a sniff test when a charity is preparing a fund-raising appeal: “If you say it, be sure you can prove it; if you can’t prove it, don’t say it.”

- Be careful if using financial ratios in appeals. Make sure that there is financial documentation or other substantiation to back up every financial reference, ratio or pie chart used in appeals. Check to be sure that these are the current figures and not figures that were valid years ago.

- Be especially cautious about “100 percent” claims. For example: A charity may claim that “100 percent of your donation will support our programs” in fund-raising statements. This is not a recommended type of appeal because it reinforces the destructive public perception that charities don’t need administrative or fund-raising dollars to operate. If a charity chooses to make such a 100 percent claim, it should also disclose how this claim is substantiated: Is a donor underwriting fund-raising and administrative costs, so that further donations can be attributed to programs? That should be disclosed right in the fund-raising claim, and you should be able to back it up with documentation if asked to do so by the BBB or by investigative reporters.

- Get development staff out of their silos. To ensure accuracy, development officers need to talk to their executive directors, general counsel and chief financial officers about the development of fund-raising appeals. All too often, this doesn’t happen, and the mistakes that result can be unfortunate.

- Establish and enforce fund-raising practice guidelines. Mistakes are more likely to occur when there are no guidelines to follow. It’s a good idea to establish policies, vetting processes and training procedures so that current and new staff or volunteers will understand what can and cannot be said, done or depicted in a fund-raising appeal emanating from your organization. Guidelines are of little value if they are not enforced, so be sure that you also have a good process for monitoring your nonprofit’s fund-raising appeals and practices.

- Bring in professionals when necessary. If your organization is committing its dollars and prestige to an important fund-raising campaign, it really pays to check the language and imagery used in that appeal with an accounting or legal professional. Fund-raising appeals can be too narrowly phrased, as well as too vague. Charity leaders should ensure that the language and other appeal elements are broad enough to convey the intended uses of the donated funds, but also specific enough to communicate the funding purposes accurately. This can sometimes be tricky, especially in quick turnaround situations (such as disaster-related appeals), so seek professional advice when it is needed.

- Put fund raising on your board’s risk management dashboard. If regulators might hold your board responsible for the way in which your organization conducts its fund-raising appeals, your board members will need to know the key facts about how it is being done. Put fund-raising solicitations on the board’s risk management checklist and report regularly on highlights of your monitoring efforts, so that board members can stay informed of and engaged in this issue.

Board members should also be informed about financial arrangements with major outside fund-raising firms, such as telemarketers, in order to verify that the terms will be in your organization’s best interests and that appeals made on your charity’s behalf by the fund-raising firm will be accurate. Making fund raising a board-level priority will help ensure that it is an organizational priority.

- Protect the donor. Here’s another simple test: Look at your fund-raising appeal from the donor’s perspective. Does it clearly tell you all that you would reasonably want to know before making a donation? If it doesn’t, work on it until the appeal is very clear. Hint: Before omitting any key information, carefully consider whether that information should, in fairness, be disclosed to donors.

- Nurture a culture of disclosure and accuracy. It can often be hard for an organization’s enthusiastic marketing team to step back and take a donor’s view of a clever fund-raising appeal. Creative minds can naturally get very married to their creations. If a charity has established a strong organizational culture of integrity, development team members will be far more likely to check solicitations carefully before launching them.

The most attractive fund-raising appeal in the world will not do any good if it is potentially misleading. There is no more precious resource than donor trust in the charity world. Once donor trust is gone, then, so is all hope of raising money.

Testing an appeal for accuracy and adequate disclosure should be as much a part of the development process as testing an appeal’s fund-raising drawing power. Strong leadership from the top about such matters is needed in order to establish expectations and practices that will help protect your charity and ensure its fund-raising success.

Laura K. Lewis is the senior vice president of programs and services at the Better Business Bureau Serving Metropolitan New York.

This story originally appeared in the NYSSCPA’s online publication the TaxStringer.
Adding PFP to your practice? Speakers offer step-by-step guidance

BY CHRIS GAETANO
Trusted Professional Staff

D
o CPAs have a place in personal financial planning (PFP)? A few decades ago, that might have been a provocative question. Today, take, for example, “Accountants as Financial Planners,” a 1991 New York Times story about the AICPA’s efforts to highlight CPAs who ventured into PFP. Putting the accounting profession on the defensive, the article wondered, “Why should the public get their financial advice from CPAs, as opposed to non-accountants?” (Stuart Kessler, an NYSSCPA past president who was interviewed for the piece, offered one succinct answer: Because CPAs “are bound by enforceable standards of conduct. The CPA is thought of in the public mind as an expert who co-led a discussion about using tax information to identify financial planning needs.

On the other hand, the speaker said, firms that do take a bite of the apple could find themselves playing an ever more prominent role in their clients’ lives. The conference, organized by longtime CPA educator Sid Kess and Steven V. Melnik, an associate professor of tax law at Baruch’s Zicklin School of Business, featured Kessler as its keynote speaker. Reiterating the point he made to the Times 24 year ago—that CPAs are a natural choice for PFP services—he said the number one benefit of the practice area for firms is that it helps to grow strong client relationships.

If a CPA does a good job of shepherd- ing a client’s personal finances, Kessler said, he or she can eventually become “the family consigliere.” This, in turn, would allow CPAs to extend their client base over several generations—not only working with parents, but their children or grandchildren—and draw in revenue from additional services, such as retirement planning, estate planning or asset allocation.

The new question, according to several speakers at The CPA as Financial Planner Conference, a joint event presented by Baruch College and the Foundation for Accounting Education on July 15–16, is directed at CPA firms that may be watching from the sidelines: Why aren’t you offering PFP services?

The question, new according to several speakers at The CPA as Financial Planner Conference, a joint event presented by Baruch College and the Foundation for Accounting Education on July 15–16, is directed at CPA firms that may be watching from the sidelines: Why aren’t you offering PFP services?

As it touched upon a wide range of PFP opportunities, from elder care plans to planning for college, the conference had one overarching message: This practice area cannot be ignored. Indeed, according to data from the market research and long- range forecasting company IBISWorld, the demand for PFP is set to outpace the market for personal financial planning.

“The time I meet with [a planner] who is not a CPA, the first thing they tell me is, ‘I would give my right arm to be in a position where my client had to talk to me once a year!’” — Walter M. Primoff, financial executive and personal financial consultant

Making the shift

So how does a CPA get started in PFP? According to Kessler, an obvious point of entry is through existing clients. As Walter M. Primoff, a financial executive and personal financial consultant, noted during a Q&A session, the annual rhythm of the CPA–client relationship brings opportunities for PFP that other professionals don’t have.

“For every time I meet with [a planner] who is not a CPA, the first thing they tell me is, ‘I would give my right arm to be in a position where my client had to talk to me once a year!’” — Walter M. Primoff, financial executive and personal financial consultant

“Every time I meet with [a planner] who is not a CPA, the first thing they tell me is, ‘I would give my right arm to be in a position where my client had to talk to me once a year!’” — Walter M. Primoff, financial executive and personal financial consultant

But in recent years, the conversation has shifted. The PFP industry has undergone rapid expansion—according to the U.S. Department of Labor, the number of financial planning advisers is poised to grow 22 percent by 2022—and, more and more, CPAs are leading the charge. In an AICPA survey of 2,400 CPAs last year, nearly half said that their firm offers PFP services.

Outside of existing clients, Kessler said, CPAs could also pursue high-net-worth individuals—who are often too busy making money to give significant thought to managing it—or other professionals, like lawyers. Most attorneys, Kessler said, focus on their clients so much that they give short shrift to themselves. As a result, he said, “their estates are a mess.”

Regardless of whom a CPA seeks out, Kessler advised setting up a casual meet- ing where, instead of delivering a lecture about the importance of financial planning services, he or she takes the time to listen to the client’s needs.

However, CPAs shouldn’t feel pressure to offer services to every client they’ve ever had; in fact, according to Deborah Fox, the CEO and founder of a financial planning network, they probably shouldn’t. Instead, at least in the initial stages, CPAs should look at their client list and identify who among them might benefit from PFP planning of engagements, and working with other service providers. It’s currently available at aicpa.org.

According to the AICPA, the standards apply to a practitioner if he or she provides cash flow planning; risk management and insurance planning; retirement planning; investment planning; estate, gift and wealth transfer planning; elder planning; charitable planning; education planning; or tax planning.

“If you’re helping clients ascertain where they are today vs. where they want to be in the future, [and] you are provid- ing specific recommendations … it’s very, very important you follow the guidelines,” Gassman said.

As an additional word of caution, John S. Marten, a shareholder at Vedder Price and member of the firm’s Investment Ser- vices group, noted that CPAs who dole out specific investment advice about securities would likely be considered by the SEC to play an investment adviser’s role, mean- ing they would need to register as an investment adviser, adhere to the standards promulgated for investment advisers and maintain a compliance program in order to ensure that those standards are being followed.

The SEC defines an investment adviser as anyone who, for compensation, is engaged in the business of providing advice; making recommendations; issuing re- ports; or furnishing analysis on securities, either directly or through publications. While CPAs are generally exempt from SEC registration, that only applies if such services are incidental to their profession and if they’re providing limited investment advice.

“If you crossed that line from financial planning to investment advice, you need to register,” Marten advised.

The NYSSCPA offers additional re- sources for CPAs interested in personal financial planning through its Personal Financial Planning Committee, which holds meetings approximately nine times a year. For more information, visit nysscpa.org/membership/committees.

cgaetano@nysscpa.org
October is Financial Planning Month and, once again, the Society is set to hold several financial education and financial literacy events. In the past, various NYSSCPA chapters have hosted seminars, participated in outreach clinics or given informational talks at the public library. This year, the Society will be hosting, among other things, free Financial Fitness fairs and Money Brunch seminars, with our CPA members offering introductory financial education sessions and one-on-one consultations with young adults, college students, families, individuals, small business owners and seniors.

Here’s where you come in: We need volunteers to help lead some of the discussions, as well as to answer questions from attendees. We’ll be fielding queries on basic individual and small business tax issues, 529 plans and making college affordable, budgeting and credit, insurance, Affordable Care Act tax implications, investing and estate planning.

The Society will be holding events in the New York City metro area on the following dates:

- Oct. 3–Molloy College on Long Island, 10 a.m.–2 p.m.
- Oct. 17–Per Scholas in the Bronx, 10 a.m.–2 p.m.
- Oct. 23–NYPL Science and Business Library in Midtown Manhattan, 11 a.m.–6 p.m.
- Oct. 24–Eagle Academy for Young Men, in the Bronx, 10 a.m.–2 p.m.
- Oct. 31–Brooklyn Money Brunch location TBD.

As we will be working in teams and shifts, only a few hours of your time are needed at each event. An informational phone call to organize volunteers will be scheduled for each activity.

We’ll also be pitching various news outlets throughout the month—radio, TV and online, as well as print—and will need several CPA volunteers to represent the Society as the need arises.

If you’re interested in volunteering a few hours of your time for public service events or media outreach opportunities, or if you’d like to hold an event in your area with your chapter, please email Alonza Robertson, NYSSCPA media relations manager, at arobertson@nysscpa.org. Please put “Financial Planning Month” in the subject line of your email.

NYSSCPA volunteers Sheila Brandomberg and Daniel Mazzola field questions at a 2013 New York Public Library event that the Society participated in.
In 1987, when the NYSSCPA and its Foundation for Accounting Education launched Career Opportunities in the Accounting Profession (COAP) to introduce young people to the field, they started small. Organizers hosted just 25 college-bound students at a single campus, Pace University in Pleasantville.

Since then, the free summer program has grown exponentially. It drew more than 200 high school juniors this June and July, and the roster of participating campuses now contains public and private schools throughout the state, including Adelphi University, the University at Buffalo, Long Island University (LIU), the University at Albany, Pace, St. John’s University, the State University of New York at Oswego and Westchester Community College. Each of the programs is organized and led by local NYSSCPA chapters.

Moreover, COAP, which gives special attention to populations that are underrepresented in the profession, continues to find innovative ways to showcase the breadth of accounting careers, as well as offer young people direct interaction with CPAs and business leaders.

For example, students who participated in the 2015 program at Adelphi had Leonard Labita, vice president and controller of the New York Mets, as a guest speaker, and even got to take in a ballgame at Citi Field stadium. Students who attended the St. John’s program in Queens heard from FBI special agent Thomas O’Grady, who offered an overview of his job.

COAP also assists students long after the summer ends. Participants are eligible for a college scholarship that provides $2,000 per year for up to five years for students studying accounting at a college or university in New York, with the goal of becoming a CPA. The program also boasts an alumni community of more than 3,000, with numerous alums going on to become CPAs.

Here’s a look at some highlights from 2015 COAP programs.
Every chapter of the New York State Society of CPAs has a NextGen Committee, and extends membership to young CPAs throughout the state.

Find out how to become involved by contacting Tekecha Morgan at tmorgan@nysscpa.org or call 212-719-8425.
The NYSSCPA and its Foundation for Accounting Education gratefully acknowledge the leadership and generosity of the following CPAs, firms and companies who contributed to The Moynihan Fund at the Society’s 118th Annual Election Meeting and Dinner. For more on The Moynihan Fund, visit www.gofundme.com/carryforward.

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In Buffalo, a powerful reminder and an urgent call to action

BY BRUCE M. ZGODA
Buffalo Chapter President

Some are blessed to be teachers, but we all have the opportunity to shape a mind, to shape a life.

These words were spoken by David J. Moynihan, the Society’s 2009–2010 president, whom we lost in January. You’ll be hearing more about Dave and his legacy in upcoming months—our chapter will be collecting donations for the Moynihan Fund, an educational trust the NYSSCPA created in Dave’s honor, at our ethics update in October. The fund finances the Foundation for Accounting Education’s student scholarships and programs, such as Career Opportunities in the Accounting Profession (COAP), and allows us to extend a hand to future generations, just as our predecessors did to us. For more information about the fund, visit www.gofundme.com/carryitforward.

Dave’s words remain a powerful call to action. When I reflect on my 40-plus years in this profession, it’s clear that we truly are trusted advisors, not just in our work lives, but in our everyday lives. We’re held to a higher standard than most, and we should accept the challenge to model integrity and morality. Whether it’s at work, at home or out in the community, we all have the ability to set a powerful example for others.

At our Summer Symposium, which was held in late July and headed by Greg Altman, Pat McGrath and Ed Arcara, we got a stark reminder that we as CPAs must always keep our eyes and ears open, and can never let greed and power influence our judgment. The event’s speaker, Richard M. Scrushy, is the founder and former CEO of HealthSouth Corp and was convicted on bribery and corruption charges in 2006. Now that he has served out his sentence, he frequently speaks about fraud.

As we mark the start of the school year, our chapter has many activities on the horizon. We will be speaking about the profession at local high schools and trying to get students excited about all that it has to offer. The NextGen Committee, led by Christie Adamczak, organized an outing to a Buffalo Bisons baseball game on Aug. 27 and had its Annual Golf Outing in September. There are also some exciting CPE seminars coming up, so that we can continue to serve our members’ educational needs.

As I always do, I’d like to remind young CPAs that it is never too early to join us. We need your insight, fresh ideas and enthusiasm. In turn, we can provide experience and leadership that will help to guide you as you become our next generation of leaders. We will not turn you away if you give us a chance.

Thank you for your continued support.

Matt Zgodz4848@aol.com

MATTHEW P. BRYANT
Rochester Chapter President

One of my goals this year, particularly as a CPA in industry, is to strengthen our chapter’s Industry Committee. We’ve secured a remote location here in Rochester for our members to view the webcast of the NYSSCPA’s Industry Conference on Oct. 16: The offices of EFP Rotenberg, LLP, which are located at 280 Kenneth Drive, Suite 100. This event willallow chapter members and nonmembers to network while enjoying breakfast and lunch—provided at no additional cost—and earning eight hours of CPE. In other words, for what it would cost to watch the webcast alone at your desk, you can join me and other industry accountants for a day of networking and education, with meals included. I’ve attended the Industry Conference in the past and found it to be a good platform for discussing challenges my company faces with others who have similar concerns.

Attending the conference also helped me to increase my network of industry accountants, which has had long-term benefits. For one, it allows me to reach out to even more individuals and gain insight on a variety of situations. As an example, I have asked others in my network how they encourage customers to sign up for electronic funds transfer payments to decrease payment processing time, while avoiding the fees involved with credit card payments. I received several creative answers to this query, and my company even used some of the ideas.

Our chapter’s Industry Committee is also working on a state taxation seminar for late fall or early winter that will address daily challenges CPAs in the business sector face. Personally, I like to manage our company’s state registrations, sales tax returns and tangible property tax returns in house. However, given the vast difference in reporting requirements by state, I sometimes need to seek outside advice on these matters. One of the goals of our state taxation seminar is to help CPAs address such a problem and identify the various registrations that may be required.

Another challenge I encounter as a CPA in industry is finding high-quality, reasonably priced CPE. The Industry Conference provides great value, with first-class material, at a reasonable cost. In addition, our chapter is working with potential sponsors for the state taxation seminar in an effort to offer another reasonably priced CPE session. I will continue to look for additional CPE opportunities for our industry members and welcome suggestions about potential CPE topics.

Setting up small group meetings with eight to 12 finance leaders is also a good way for our chapter’s industry members to meet others in similar roles and share ideas. Our industry members represent a wide range of business sectors, but there are a number of topics that are applicable to nearly everyone. If you are one of our chapter’s industry members and are interested in meeting with other finance leaders to discuss topics of mutual interest, please email me at the address below and I will add you to the list of interested members.

While I have taken the reins on some of these industry events so far, I need your help in developing leadership in our chapter’s committee. With a committee of four, we could split into pairs, with each pair scheduling one event. The time commitment for the Industry Committee would not be overwhelming, and it is a great opportunity to make new contacts and meet the rest of our chapter’s board. If you’re interested in working on our chapter’s Industry Committee, please email me.

Lastly, our annual ethics/clambake/Hall of Fame event, took place on Sept. 22 at Monroe Golf Club. The program began with a free two-hour ethics CPE session and included a social hour before the start of the clambake/Hall of Fame portion of the program. The Hall of Fame award is handed out each year by our chapter to a CPA who has made significant contributions to the NYSSCPA and the accounting sector. The 2015 NYSSCPA Rochester Chapter Hall of Fame recipient is Joyce Martelli. Please join us in recognizing Joyce for her years of hard work to earn this recognition.

This year, our chapter will be collecting donations for the Moynihan Fund. The Society launched the fund in March, in honor of the NYSSCPA’s late 2009–2010 president David J. Moynihan. It is administered by the Society’s Foundation for Accounting Education (FAE), and will encompass all of the FAE’s college accounting scholarships and high school accounting introduction programs. Please keep the fund, and all those it will benefit, in mind.

mbryan@pharmasmart.com
**CHAPTER EVENTS & CPE**

**ADIRONDACK**
Annual Tax Conference and Town Hall Meeting
Where: Nov 16, 9 a.m.–5 p.m. (check-in 8:30 a.m.)
When: High Peaks Resort, 2384 Saranac Ave., Lake Placid
Cost: TBD
CPE: 8 (transactional)
Course Code: 28612642
Contact: Nathan Farkas at nathanfarkas@cpa.com

**BUFFALO**
Buffalo Chapter Ethics Update (General Ethics)
Where: Oct. 22, 9–2 p.m.
When: Salvatore’s Italian Gardens, 6461 Territorial Road, Depew
Cost: TBA
CPE: 2 (general ethics)
Course Code: 42012607
Register online or Call: 800-537-3635

**Manhattan/Brong**
CPA Ethics Update and Town Hall Meeting
Where: Oct. 5, 6–8:15 p.m.
When: 801 Lafayette Street, 17th Floor
Cost: $20 dinner and presentation
CPE: 2 (1 accounting, 1 auditing)
Course Code: 28603640
Register online or Call: 800-537-3635

**small business administration and household and credit card debt**
Where: Oct. 15, 6–8 p.m.
When: 801 Lafayette Street, 17th Floor
Cost: $20 dinner and presentation
CPE: 2 (advisory services)
Course Code: 29152601
Register online or Call: 800-537-3635

**Annual Golf Classic to Benefit The Ted Wilson Scholarship Fund**
Where: Oct. 19, 10:30 a.m. check-in, 11 a.m. lunch and warm up, 12 p.m. start, 5 p.m. dinner and cocktails
When: Bump Golf Links at Ferry Point, 500 Hutchinson River Pkwy, Bronx
Cost: $549 per golfer; $525 reception and dinner only
Course Code: 45150600
Register online or Call: 800-537-3635

**Mid Hudson**
CPA Ethics Update and Town Hall Meeting
Where: Oct. 6, 7–9:30 p.m.
When: Ramada Inn, 1289 Route 300, Newburgh
Cost: TBA
CPE: 2 (general ethics)
Course Code: 42022605
Register online or Call: 800-537-3635

Mid Hudson Chapter Conference & Auditing Update
Where: Oct. 22, 8 a.m.–4 p.m.
When: The Pouhkeopsie Grand Hotel, 40 Civic Center Plaza, Pouhkeopsie
Cost: $575 members, $3225 nonmembers
CPE: 8 (4 accounting, 4 auditing)
Course Code: 20102632
Register online or Call: 800-537-3635

Banker, Attorney and CPA Networking Event, featuring Coach Marv Levy
Where: Nov 4, 5:30–9 p.m. cash bar, hors d’oeuvres and dessert service
When: Anthony’s Pier 9, 2975 Routes 9W, New Windsor
Cost: TBA
Course Code: 45020603
Contact: Maria Petrollese at maria@info-byte.com

Nassau
GAAP & Financial Reporting Update
Where: Sept. 30, 8–10 a.m.

**Queens/Brooklyn**
Queens/Brooklyn Chapter NY Cares Day
When: Oct 17, 9:30 a.m.–2 p.m.
Where: TBA
Cost: Free
Course Code: 45166002
Contact: Alkayy Shmaramat at alkayy@shmaramatpc.com
Data Analytics in Accounting
When: Oct. 26, 9–4 p.m.
Where: St. John’s University, Butter Hill Rm 277, 8000 Utopia Pkwy, Jamaica
Cost: $25 members, $30 nonmembers
CPE: 2 (specialized knowledge)
Course Code: 29165601
Register online or Call: 800-537-3635

Fall 2015 Banker/CPA Networking Event
A Joint Nassau/Suffolk Session
When: Oct 22, 8:30–11 a.m.
Where: 1815 Broad Hollow Rd., Farmingdale
Cost: $60 per person in advance; $70 at the door
Register online or Call: 800-537-3635

Queens/Brooklyn Annual Tax Conference
Where: Nov. 4, 8:30 a.m.–4:30 p.m.
When: NYS Department of Taxation and Finance, 15 Metro Tech Center, Brooklyn
Cost: $150 member, $175 nonmember
CPE: 8 (taxation)
Course Code: 28616162
Register online or Call: 800-537-3635

CPA Ethics Update and Town Hall Meeting
When: Nov. 9, 8:30 a.m.–1:30 p.m.
Where: 40 Civic Center Plaza, Poughkeepsie
Cost: Free
Course Code: 42162610
Register online or Call: 800-537-3635

**Rochester**
50th Annual Rochester Tax Institute
Where: Nov. 20, 8:30 a.m.–4:15 p.m.
When: Holiday Inn Rochester Plaza Hotel, 70 State St.
Cost: TBD
CPE: 8 (transactional)
Course Code: 28605671
Details to follow

CPA Ethics Update and Town Hall Meeting
When: Oct. 15, 6–9 p.m.
Where: 45080603
Cost: $20 dinner and presentation
Course Code: 42152604
Cost: $20 members; $25 nonmembers
CPE: 2 (general ethics)
Course Code: 28013660
Register online or Call: 800-537-3635

ROCKLAND
Laws, Ethics & Finance and Business
Succession Planning
Where: Oct. 22, 8:30–11 a.m.
When: City Line Restaurant, 254 S Main St, New City
Cost: $35 members, $50 nonmembers (additional $10 at door)
Course Code: 3 (transactional)
Course Code: 29176063
Contact: Shari Berk at shari@seberkcpapc.com

CPE Ethics Update and Town Meeting
When: Nov. 22, 8–10 a.m.
Where: Memorial Hwy, Bohemia
Cost: Free
Course Code: 45070607

SOUTHERN TIER
Southern Tier Annual Tax Conference
Where: Oct. 22
When: Holiday Day Inn Annex, 2–8 Howley St, Binghamton
Cost: $175 members, $250 nonmembers
CPE: 8 (transactional)
Course Code: 42172613
Register online or Call: 800-537-3635

CPA Ethics Update and Town Hall Meeting
When: Nov. 2, 4–6 p.m. ethics, 6:30 p.m. dinner and cash bar
Course Code: 42022605, 42024606
Register online or Call: 800-537-3635

STATEN ISLAND
Monthly Membership Meeting and Town Hall with NYSFCU president and president-elect
Where: Oct. 8, 8:30 a.m.
Where: Harbour Cafe, 694 New Dorp Ln., Staten Island
Cost: Free
Course Code: 45070603
Contact: Roseanne Giovannozzo-Barnickel at rbgiovannozzo@nysfcu.org
Cybersecurity & Business Risk and Opportunity
When: Oct. 15, 6–8 p.m.
Where: Investor’s Bank–Fort Tryon Branch, 271 Page Ave
Cost: Free
Course Code: 45070604
Contact: Tiffany Montreuil at tmontreuil@nysfcu.org

World of Accounting
A High School Outreach Event
When: Oct. 23, 8:30 a.m.
Where: The College of Staten Island, 2800 Victory Blvd
Cost: Free
Register online or Call: 800-537-3635

14th Annual Charity Bowl-a-thon
Where: Nov. 7
When: Rob’s Country Lanes, 1460 Hylan Blvd
Cost: TBA
Course Code: 45070607

CPE Ethics Update
When: Nov. 12, 5–6 p.m. dinner; 6–8:30 p.m. ethics
When: Regan McGinn Education Center at S.I. University Hospital, 475 Sunnyside Ave.
Cost: TBA
Course Code: 42027611
Contact: Roseanne Giovannozzo-Barnickel at rbgiovannozzo@nysfcu.org

Staten Island Annual Tax Conference
Where: Nov. 20, 8:30 a.m.–4:30 p.m.
Where: College of Staten Island 2800 Victory Blvd
Cost: $125 members, $175 nonmembers
Course Code: 42867421
Contact: Anthony Maltese at anthonym@maltesecpa.com

**Suffolk**
CPE Update and Review
Where: Oct. 2, 8–10 a.m.
Where: Center & Associates, 3340 Veterans Memorial Hwy, Bohemia
Cost: Free
Course Code: 2 (auditing)
Chapter News

When it comes to social media, we’re right there on the front lines.

Follow us on Twitter: twitter.com/nysscpa
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NYS SOCIETY OF CPA

SYRACUSE

Syracuse Annual Tax Conference and Accounting & Auditing Update
When: Nov 17, 8:30 a.m.—4:30 p.m.
Where: DoubleTree Syracuse, 344 E. Genesee St.
Cost: $175 members, $250 nonmembers
CPE: 8 (4 taxation, 4 auditing)
Course Code: 28607651
Register online or Call: 800-537-3635

WESTCHESTER

New Developments in Social Security Planning
When: Sept 30, 7:30 a.m. breakfast; 8–9:30 a.m. presentation
Where: David Arrowood—Hudson Room, 975 Anderson Hill Rd, Rye Brook
Cost: $45 per person
CPE: 1 (taxation)
Course Code: 29116603
Register online or Call: 800-537-3635

Fall 2015 Banker/CFA Networking Event
A Joint Nassau/Suffolk Session
When: Nov 6, 6–9 p.m.
Where: Private Residence, 6515 Old Country Rd, Brookhaven
Cost: $10 per person in advance; $20 on-site
CPE: TBD
Course Code: 28602691
Register online or Call: 800-537-3635

Fall 2015 Banker/CFA Networking Event
A Joint Nassau/Suffolk Session
When: Nov 6, 6–9 p.m.
Where: Private Residence, 6515 Old Country Rd, Brookhaven
Cost: $10 per person in advance; $20 on-site
CPE: TBD
Course Code: 28602691
Register online or Call: 800-537-3635

Winter 2015 Banker/CFA Networking Event
A Joint Nassau/Suffolk Session
When: Nov 10, 6–9 p.m.
Where: Private Residence, 1214 Mill Road, Merrick
Cost: $10 per person in advance; $20 on-site
CPE: TBD
Course Code: 28604704
Register online or Call: 800-537-3635

Rockland’s goal: affordable, quality CPE

BY SHARI E. BERK
Rockland Chapter President

I hope everyone had a wonderful summer and enjoyed spending time with family and friends.

Our summer CPE programs were very informative and I hope those of you who attended found them to be beneficial and cost effective. We strive to bring our chapter affordable, quality continuing education. If there are topics of interest to you that you would like to see covered in upcoming sessions, please let me know.

On Aug. 6, we held our make-up Family and Friends Night at Provident Bank Park in Pomona to catch a Rockland Boulders baseball game. We had initially scheduled the outing for June, but it was rained out. Thank you to the Boulders who moved us to the owner’s suite. It was great—and this time we even got to experience the fireworks show.

Our Ethics/Town Hall Meeting will be held on Nov. 17 at Casa Mia Manor House; registration will be available online shortly.

We are still in the midst of planning our year–end tax seminar. More details will follow and, as always, you can check our Web page, nyscpa.org/rockland for updated information.

If anyone is interested, we always need members to contribute ideas and efforts to our committees and the events we plan. Fresh faces and ideas are always welcome. Remember, this is your chapter too.

Don’t forget to check our web page, which is regularly updated with upcoming events, and feel free to contact me with your comments and suggestions for future activities.

shari@berkspage.com

Westchester kicks up the fun factor

BY MICHELE LAZZARA
Westchester Chapter President

It took so long for the summer to finally arrive and then it was over before we knew it! Hopefully, you managed to have a little fun and get some rest.

As a chapter, we’ve had a lot of fun in recent months. On June 23, we held our first joint baseball outing at Provident Bank Park, home of the Rockland Boulders, with the Rockland Chapter. We had a box and the accommodations were terrific. Unfortunately, the weather wasn’t—it rained so hard that they had to call the game before it began. We were, however, able to reschedule for Aug. 6. It was nice to attend a social event as a group and meet people from the Rockland Chapter.

We also had our annual golf outing on June 8. After a fantastic three-year run at Glen Arbor Golf Club, we changed courses and moved the event to its new home at Willow Ridge Country Club. Based on the feedback we received, every one of our participants enjoyed the event. The golfers were treated to a beautifully manicured course, with ample food and drink throughout the day, followed by an incredible cocktail hour and buffet with prizes awarded for talent—and just plain luck.

I would like to, once again, thank the golfers, hole sponsors and those who joined us for dinner and drinks. A very special thank you to M&T Bank, Rukow Commercial Realty Group and Prime Pay. I greatly appreciate those who attend or sponsor this event year after year.

I would also like to thank Jeff Schwartz, who continues to do an amazing job organizing this event.

MLazzara@markspaneth.com

Northeast Chapter marks another successful season of COAP

BY TIMOTHY DOYLE
Northeast Chapter President-elect

The Northeast Chapter’s Career Opportunities in the Accounting Profession (COAP) program completed another successful year this July. During our three-day gathering, approximately 30 high school juniors participated in classroom events and field trips that offered insight into the profession. Topics of discussion included available scholarships, career opportunities, interviewing skills and the CPA exam. Throughout the program, the participants met with accounting professionals from public and private accounting firms, as well as academia. We thank all who volunteered their time and hope to see the 2015 COAP class join the ranks of the accounting profession in coming years.

tahoye@bonadia.com
The NYSSCPA expresses its appreciation to the following firms and businesses for their participation in the Society’s 100% Membership Program. To learn how your organization can enroll and demonstrate its commitment to excellence, visit nysscpa.org/100percent.

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Now, the New York State Society of CPAs has a special program that recognizes firms, businesses, and organizations whose New York office CPAs are all members of the NYSSCPA — the 100% Membership Program.

Benefits of the 100% Membership Program
• Differentiates your firm and helps attract new clients to further build your practice
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To learn more about your benefits and how you can join the 100% Membership Program, contact Diane Abela, Project Administrator, at 212-719-8397, or dabela@nysscpa.org.
According to New York State Regulations, courses may only be categorized as the following fields of study for CPE accreditation:

- Accounting
- Advisory Services
- Auditing
- Ethics
- Specialized Knowledge
- Taxation

Courses that have a concentration in more than one field of study are labeled with the quantity of credits that apply to each category.

The FAE delivers the following professional education programs for CPAs and other financial professionals in all areas of business, including all public accounting practice areas, and those working in government, industry and academia, to help satisfy their New York state calendar-year continuing professional education requirements. To search within New York City, refer to Manhattan/Braxon. To search within Albany, refer to Northeast. For the most up-to-date event information, visit www.nysscpa.org or call 800-537-3635. SIGN UP TODAY!
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