Preparation for tax reform under President Trump

By CHRIS GAETANO
Trusted Professional Staff

Death and taxes, as the adage goes, are the most certain events in life.

With President-elect Donald Trump set to take office on Jan. 20, what’s probable, according to tax planners in New York, is that there will be reform in taxes—from income and capital gains to estate and corporate—and taxpayers should prepare for several changes.

Uncertainty generated by the political landscape under a Republican leadership going forward and Trump’s unpredictability are hampering specific tax planning, said William H. Jones, a member of the Taxation of Individuals Committee at the NYSSCPA. While Jones had his predictions, such as the long-term capital gains tax falling from its high of 20 percent for the wealthiest taxpayers, he said that, right now, it’s too soon to know for certain how exactly someone should be doing his or her tax planning.

“I think, long term, you’ll see the top rate probably go down. [The] capital gains rate maybe will go back to 15 [percent]. Who knows? But I don’t think it’s anything you’d actually want to act on until you see it. I don’t think there’s going to be a bill on Jan. 21 that he’ll sign,” Jones said.

Michael J. Gargiulo, chair of the C Corporation Committees, made a similar point when it came to business tax planning.

While he said it’s too early to fully understand what could pass in 2017, he mentioned that Trump talked about lowering the corporate tax rate to 15 percent from 35 percent. In this case, he said that he would have recommended that clients “really accelerate de-

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1937, when Franklin D. Roosevelt was at the beginning of his presidency. Yet today’s 35 percent rate for the highest earners—set by Congress during the Clinton administration—is still lower than the peak 53 percent rate in 1942, when Roosevelt’s New Deal was in full swing.

Edward L. Arcara, chair of the Tax Division Oversight Committee, cautioned against taking anything Trump said during the campaign too literally. He noted that the government is more than the president, and so people shouldn’t necessarily accept what Trump says as the final outcome because there has to be a process—which includes legislative action—for reform to take place and for new tax rates to become part of law.

“It’s interesting because everyone thinks whatever comes out of the president’s mouth is law. That’s what I talk about during tax season. ‘Well, aren’t they gonna abolish estate taxes? ’ Well, no, that’s what he said he want-

ed. They always think just because the president said it, it’s law. They don’t realize there’s a process it has to go through,” he explained.

But if taxes are lowered, even if it’s by less than what Trump promised, another area of impact could be Roth IRAs, according to Barry S. Kleiman, who is also a member of the Taxation of Individuals Committee. In a Roth IRA, contributions are post-tax, and qualified distributions are not taxable. Compared to a traditional IRA, contributions are not deductible.

Kleiman noted, though, that traditional IRA contributions will be less beneficial if taxes are lower, and that increas-

es the appeal of the Roth IRA.

“It just makes the Roth IRA more attractive than it ever has been,” he said.

Tax cut proposals are nothing new to presidential campaigns, especially with regard to personal income tax. Nevertheless, it remains to be seen whether Trump will be able to get the reductions he seeks. Previous reforms—

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Membership that pays for itself

As president of the NYSSCPA, I have opportunities to meet a segment of our membership whom I call the “silent majority.” These are the members whose only interaction with the Society might be attending a CPE course or networking at a social event or two at their local chapter. Even more “silent”—and even more of a majority—are those members whose only Society engagement, other than paying their member dues, is to read this newspaper or one of the other Society publications. If you’re one of these members, my message this month is for you.

I know you’ve heard a lot of this before, and maybe your career is going just fine whether it is, but if you take advantage of just some of the member benefits the Society offers, your practice will have the opportunity to become more profitable, and you will have expanded you network of relationships and resources that make you a more effective and efficient CPA. I know this because, as president, I also have the opportunity and the privilege of serving on a diverse Board of Directors composed of CPAs from upstate New York, New York City, Long Island and everywhere in between. They represent CPAs in industry, government, nonprofits, academia, public firms—from the Big Four to sole practitioners—but there are two things they all have in common: They are all CPAs and they have all used their membership in the Society to get ahead in their careers, build or even launch their practices, find new clients, offer new services, and establish new relationships.

Let’s take a look at how a typical board member who became active in the NYSSCPA, might leverage his Society membership to grow his practice. This individual joined the Society and also joined a few committees that interested him, went on chair them and then went on to serve as a director on the Society board. Having recently launched his own practice, he takes advantage of his Society membership to give his new business a boost—by leading CPE sessions at Foundation for Accounting Education conferences, he raised his profile and reputation among his peers, who now often seek his advice on important issues. For him, these public speaking opportunities are an investment that helps him increase the visibility of his personal brand, which, in turn, attracts clients to his business. As a member, these speaking opportunities are available to you, too, and they can bring other opportunities, just as they have for this board member.

Let’s say, though, that you don’t have time to lead CPE sessions; perhaps you don’t even have time to leave your desk. The Society’s media relations program offers members another way to achieve a high level of exposure—we connect you with various media outlets to allow you to provide interviews according to your own schedule and to speak on whatever topic you feel most comfortable. No experience necessary. The media relations staff will train you, one-on-one, and will only put you in situations where you feel comfortable. For more information, contact NYSSCPA Public Relations Manager Mike Moi at mmooi@nysscpa.org.

Maybe being in the limelight isn’t for you, though. At the very least, would you remind you that there are other member benefits that will help you in your day-to-day business and that come free with your Society membership. All you have to do, literally, is use them.

1. NYSSCPA Technical Hotline. The hotline is operated by NYSSCPA committee members who can point you in the right direction when other members have technical questions by making referrals to appropriate standards-setting bodies or to authoritative literature in order to answer queries regarding tax, accounting, auditing or consulting services, saving members literally hours of unproductive research time. Accessing the hotline is simple. Call this number: 212-719-8309, or email technical@nysscpa.org with your question. Society staff will receive your query and pair you with the appropriate hotline volunteer who will respond to you directly. This benefit is particularly valuable to sole practitioners or members in industry who need a sounding board. In fact, in recent years, sole practitioners have comprised the majority of hotline callers. Mostly tax practitioners use the hotline, but auditors can use it, too. For every practice area, the Society has a volunteer who can help. Give it a try. It works. Just keep in mind that if you don’t call during regular business hours—9 a.m. to 5 p.m.—you’ll have to leave a message. But don’t worry—we’ll call you back.

2. Exchange. If you haven’t logged into Exchange yet, you’re really missing out. A member who has belonged to the Society since the 1980s described Exchange as “the best membership benefit we’ve introduced in 30 years. Exchange is like a virtual technical hotline, except that instead of posing your question to one individual over the phone or via email, you post it in Exchange for the entire membership to read. Other members will then have the opportunity to share their experience and guidance. (No matter what the medium, however, keep in mind that a fellow member’s guidance is not a substitute for your own research and judgment.) If you’ve heard of crowdsourcing, this is it—CPA style. While it might seem intimidating at first, you have the option of just “lurking,” or reading through the questions and responses on your own. You participate at the level at which you’re comfortable. And again, it’s free with membership. Exchange is also a terrific source of information, such as schedules for upcoming conferences, seminars and events.

3. Research Resources. Your practice may require additional research resources, but don’t waste your money on a subscription when you can access the Walters Kluwer TaxAware Center for free. Your Society membership gives you access to Federal Tax Day, State Tax Day, CCH Tax Briefings, CCH Tracker News Headlines, and the online version of the Federal Tax Course Letter. Visit nysscpa.org/benefits to learn more before tax season starts. Supplement your research with your members-only access to Society publications such as TaxStringer, The CPA Journal; and Thompson Reuters’s Accounting, Auditing, and Financial Reporting Monthly Alert.

4. NYSSCPA Career Center. Did you know that the NYSSCPA has an online job board where members can post job opportunities and their résumés for free? Coupled with this is a mentorship program that links up experienced professionals with individuals seeking career advice. Additionally, we provide a community service by connecting local not-for-profit organizations in need of a CPA with Society members looking to serve on boards of directors. We are always seeking employ- ers and employment seekers, mentors and protégés, community opportunities and volunteers. Other professional associations charge their members hundreds of dollars for this same service, but the NYSSCPA provides this benefit to its members for free.

These are just some of the most popular but underutilized benefits that come with your Society membership. If you’re a member of the NYSSCPA, you already have access to the tools that you need to get to the next level in your career—whatever that looks like for you. Unlock the value of your membership. Make 2017 the year you take advantage of all the Society has to offer.
Richard Howitt was appointed in September to be the new CEO of the International Integrated Reporting Council (IIRC), a global coalition formed in 2010 to expand corporate reporting—from the traditional financial and manufacturing capital that dominates today’s reporting regime—to include human, social and relationship, intellectual and natural capital.

Prior to his appointment, Howitt served as a longtime Member of the European Parliament, where he gained a reputation for his focus on corporate responsibility. He took the time to talk to The Trusted Professional about his priorities as chief executive, the future of integrated reporting, and the role that other organizations—including governments—can play in promoting it.

Up until the time that you took this job, you were a longtime Member of the European Parliament (MEP). In what ways will you see your experiences as an MEP inform your work with the IIRC?

As an [MEP], my primary goal was corporate responsibility, so I’ve been working in this space for 20 years. I was at the meeting with the Prince of Wales’s Accounting for Sustainability Project, where it was decided to set up the IIRC, and I’ve been a voluntary ambassador for it throughout its lifetime. So, while being a chief executive and taking on that role is something new to me, the whole passion and belief in integrated reporting is something I’ve been a part of throughout. It’s the strength of my conviction that the world needs integrated reporting that has brought me to this place.

As an MEP, then, you had a long-standing interest in promoting corporate responsibility. Worldwide, there are many groups that have this very thing on their agenda. What made the IIRC, in particular, attractive to you?

I think reporting is absolutely a key driver in terms of actual business behavior. Many people in and outside of business can say things about how they’d like businesses to change, but I believe that transparency is the most powerful, practical, realizable tool to achieve that outcome. What really persuaded me, over many years, about integrated reporting—not just corporate reporting but integrated reporting—is if something doesn’t actually work for business or capital markets, it’s not going to work. And it’s not that stakeholders aren’t crucially important and that the public isn’t part of what businesses should think about. But in the end, if a business says this will not achieve long-term value creation, if investors do not believe that it impacts the financial success in the long term of a business, then it’s going to be just words, and I’m not in this for words but for action, and integrated reporting makes a difference between the two.

So, speaking to business in its own language?

It’s not just language. I think integrated reporting is about people within business—not people outside of it telling them what to do, but people inside business and inside the investment community … saying this is the key to long-term value creation, and not just for a sustainable planet but for business itself being sustainable.

What are your biggest priorities, in terms of matters internal to the IIRC? What are the most important things, in terms of how the IIRC runs and functions?

The first one is very much valuing and seeking to enhance the stakeholder role as part of the unique governance relationships we have. Our board and our stakeholder council are made up of very senior people in business, in capital markets, in the accountancy profession, and they are the key advocates of integrated reporting, globally, country by country, region by region. And I will provide ideas and enthusiasm as a leader for integrated reporting in the world, but I’ll do so as part of a wider network of senior advocates that we have. … Supporting people in the task is a very important element of what I want to do internally.

Second, we are partnering up with the International Corporate Governance Framework for our forthcoming conference, and we want to put the whole concept of integrated reporting as a pillar of 21st century corporate governance and to speak—at the senior executive level, at the board level—even more clearly on how integrated reporting and integrated thinking are crucial to long-term business success, and that will be a big element of our messaging in the next period.

Third, while I’m someone who comes from a governmental background, the IIRC is a market-led initiative, and we believe in market-based solutions, but we do want what we call “regulatory endorsement.” We want governments and intergovernmental organizations to send signals back to the market that integrated reporting is the future and that we are on a journey to a new and different global norm.

What are your biggest priorities in terms of the IIRC’s overall agenda? What areas do you want the IIRC to focus on during your tenure?

Well, we’re in what we call the “breakthrough phase,” at the moment, where we are getting notable early adopters, and that’s providing leadership and sending signals out to the market. Within probably just over a year, we will then move to what we call the “global adoption phase,” where we have this aspiration—a high one, but a right one—that integrated reporting becomes a global norm, and we expect that within the next phase, just over a year’s time, and that is an aspiration I will work to achieve as chief executive.

Sustainability reporting refers to guidelines of a company with regard to the impact on the environment, society and governance. Integrated reporting, at the same time, tells the story of how that company is dealing with those impacts, and gives investors an idea of the future plans of the company. For many, sustainability reporting and integrated reporting are often mentioned in the same breath, yet they are still distinct concepts. How would you describe the differences between the two and, conversely, how do you feel one informs the other?

First, they are distinct, but they’re not separate. A lot of great work has been done—and will always be done—on environmental, social and governance (ESG) reporting by companies, which we don’t seek to replicate in any way. That has been done very well. But is it part of the core of business strategy and decision making? Is it leading to a change in the business model? And does it really contribute to long-term value generation for the business itself? And does the business believe it? Unless the answer to all these questions is “yes,” then there is no integration. So, that’s what integrated reporting has to do.

If you look at the integrated reporting framework, it’s a high-level, principles-based framework, one that has been worked on painstakingly by a coalition that has broad-based acceptance, including from all the work done in ESG reporting. They’ve been part of the process. There is a corporate reporting dialogue where the IIRC has brought together major financial standards setters in the world, along with major nonfinancial standards setters like the Carbon Disclosure Project, and they recognize integrated reporting is an umbrella, that we are the movement bringing them all together—not replacing or competing with them. So, I think there is some confusion in the market about that.

What are your biggest priorities in terms of the IIRC’s overall agenda? What areas do you want the IIRC to focus on during your tenure?

So far, there have been two memoranda of understanding between the GRI [Global Reporting Initiative, an organization that promotes sustainability accounting] and the IIRC. To what degree do you feel the two bodies need to cooperate and collaborate, and to what degree is it important to emphasize the differing missions between the two?

I put that down to the same context, that the GRI, along with the SASB [Sustainability Accounting Standards Board] and the Carbon Disclosure Project, are part of the dialogue, part of our stakeholder council, part of our governance. They’re key partners. We don’t just have an MOU [memorandum of understanding]—we have a very, very close collaboration between us and the shared understanding about the future, and I’m very, very pleased. I’ve done 16 international meetings with them, know them inside and out, and as far as we’re concerned, we’re strategic partners. We’ve been entirely complementary, as far as our work in the corporate reporting dialogue, to ensure there is an alignment. That’s not only in our interests but business’s as well—they want the different frameworks to align with each other and move toward a synchronized response.

While many companies have applied integrated reporting voluntarily, some countries, like South Africa, require it for exchange listing. Should there be more of such mandates, or do you feel it’s better to let the market decide?

There will be different approaches in different countries in different regions, and to me, it’s whatever works. The South African example is clearly a highly successful one, and … I do see listing requirements and stock exchange rules being an important tool we can use to advance integrated reporting. But then, equally in Japan, it’s very much the stewardship code and corporate governance codes which have led such an important breakthrough there, where there has been the biggest uptake of integrated reporting anywhere in the world. And in the U.K., it’s been strategic reports—literally, company legislation—that has made a big advancement in terms of my work. So, all these combinations of “soft” law and hard law can have a role to play. But I’ve always argued—and I still do at the IIRC—that the market-based solution is the right one. But businesses themselves say that signals, signposts and providing a level playing field can help the market in this area, and that is the area where the IIRC operates.

What’s the biggest challenge in promoting integrated reporting and convincing companies to adopt it?

I have had many, many more conversations with companies where they come to me, in my old role as ambassador and my new role as CEO, saying they’re interested in this and they know about it and understand its aspirations and want to help, or want to find out more, or convince other colleagues. The IIRC

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businesses, with regard to accessing banking services, going public, paying taxes, valuating the product and undergoing audits. There is also a greater potential for fraud and theft than in other businesses. Complying with state regulations constitutes another major undertaking. New York’s medical marijuana law is the most restrictive in the country, and keeping up with all the state-level regulations can sometimes seem a Sisyphean task.

In addition, a company doesn’t have to pro-
duce or sell marijuana to be exposed to risks associated with it. The landlords who rent to marijuana-related companies, the financial institutions that would handle their money, the insurance companies that cover them—all of them potentially face regulatory risks from being associated with marijuana businesses.

“If your clients are banks, if your clients are land-
lords, you [must] understand the risks they run by providing related services,” Goldman said.

She also mentioned that CPAs risk po-
tential licensure issues with their respective state boards, depending on what their codes of conduct are. Mat Young, vice president of State Regulatory and Legislative Affairs at the AICPA, who also spoke at the con-
ference, addressed that issue. He noted that state boards of accounting in eight states have passed guidance on marijuana businesses. These boards generally hold that providing accounting services to a marijuana business is not in itself an act discreditable and that they won’t pursue independent disciplinary action against CPAs based on such an engagement. The AICPA has issued model guidance for state boards, which is available at aicpa.org/marijuana.

Despite its many challenges, the industry is booming. Data from consulting group New Frontier showed that the medical marijuana market in the United States is estimated to reach $11 billion in 2020, with California making up about 30 percent of that amount. That doesn’t take into consideration recre-
tional use, which could further drive sales of the drug. Voters in California passed a ballot in November to legalize marijuana for rec-
reational use, 20 years after it became lawful there for medicinal purposes. Massachusetts and Nevada also passed a ballot for legaliza-
tion for recreational use in November.

Hurdles to banking, going public

Still, the challenges must be addressed head on. One major hurdle is how difficult it is for marijuana businesses to access banking services. Henry Meier, general counsel of the New York Credit Union Association, noted that banks and credit unions are obligated by the Financial Crimes Enforcement Network (FinCEN) to know their customers and to file Suspicious Activity Reports (SAR) if any of those customers do something that seems suspicious. This requirement can be particu-
larly tricky, he said, when it comes to a sub-
stance that is technically illegal on the federal level. While it is theoretically possible for a financial institution to service marijuana busi-
nesses, Meier said that doing so would require a great number of SAR filings, as a bank must file SARs each time it suspects that a custom-
er is engaging in illegal activity. This means many banks see this as too much trouble and decide not to offer services to these companies at all.

“Only the biggest and most sophisticated
banks and credit unions can do this. This is not something your average community bank can do, given these restrictions,” he said. But even with this hurdle cleared, Meier said that the Federal Reserve has refused to grant banks that deal with marijuana busi-
nesses access to its system, which severely re-
stricts a bank’s ability to move money around, and the Federal Deposit Insurance Corpo-
ration has refused to insure their deposits.

Moreover, if a marijuana business were to go bankrupt, it would not be permitted to reor-
ganize under Chapter 13 or Chapter 11. All of these restrictions do not make him optimistic when it comes to the legal marijuana industry.

“You will not have a viable industry in the long term without allowing greater fluidity and financing from the banking system, and right now, there are too many uncertainties,” he said. But the future is not entirely certain here.

Savino says N.Y. medical marijuana program has room for improvement

By CHRIS GAETANO

New York state Sen. Diane J. Savino, speaking at the NYSSCPA’s Mari-
juana Symposium in midtown Man-
hattan on Dec. 13, said that while the state’s medical marijuana program faced numerous legislative, regulatory and implementation hurdles since its inception, its primary chal-
lenge—the federal government’s refusal to modify the drug’s Schedule 1 status as a dan-
gerous substance that has no accepted medical treatment use—remains stubbornly in place.

Because many banks won’t do business with marijuana companies, the industry remains primarily cash-based, which, Goldman noted, carries all sorts of other risks, not the least of which are theft and fraud.

“Even when dealing with people of integ-
rrity … whenever you have this much cash, there’s always a fraud concern. You want to make sure you know what their controls are over who touches the cash,” she said.

Another panelist, Duncan B. Will, a loss prevention specialist with the liability insur-
ance company CAMICO, made a similar point and added that it’s better to deal with the kinds of questions surrounding cash soon-
ther rather than later.

“Cash. How is that being reconciled? How is it being controlled? Who has responsibility for that? … I don’t want there to be a cash is-
sue down the road and have someone say, Oh, this is what you said for us to do,” he advised.

If a marijuana business decides to go pub-
lic, it faces even more challenges endemic to the industry, according to Ram Mukundra, the president and CEO of IGC, Inc., a company that develops phytocannabinoid-based thera-
pies for pain, seizures, cachexia, and chronic and terminal neurological and oncological diagnoses. While the company is listed on the New York Stock Exchange today, getting there wasn’t easy.

First, said Mukundra, exchanges themselves take a hard line on deriving revenue from cannabis products, saying that if a company is involved in touching, growing, processing

Because the medical marijuana program has great concern about the nominee for U.S. attorney general, U.S. Sen. Jefferson “Jeff” Sessions (R-AL), who has come out heavily against marijuana legalization, for both med-
ical and recreational use. If he becomes the nation’s top law enforcer, he could easily tear apart the Cole Memo, a set of Department of Justice—provided guidelines issued in 2009—
and updated in 2011 and again in 2013—for federal prosecutors on how they should en-
force marijuana laws under the Controlled Substances Act.

“It he comes in, he could very easily tear up the [guidance], say these rules and guidelines no longer exist, and could throw an entire in-
dustry in disarray,” she said.

The industry, including the states that reg-
ulate it, uses the Cole Memo to shape its own programs and business practices. New York is no exception. The Empire State, while quite progressive in other respects, has some of the most draconian drug laws in the country, Sav-
ino said. These laws, she added, represented prevailing attitudes among New Yorkers that needed to be overcome in order to implement a medical marijuana program in the state, not the least of which was Gov. Andrew Cuomo’s position. Savino said that she needed to work with the governor to overcome what she said were heavy reservations about the proposal.

This meant that when the bill was finally signed into law in 2014, it created a program that was smaller and narrower than she had originally envisioned. So, for instance, while the original legislation allowed medical mari-
juaana to be prescribed for posttraumatic stress disorder and chronic pain, these conditions were cut in the final version due to concerns about abuse.

Because of this narrow application, Savino said that the program, as it currently works in New York, faces significant obstacles in achieving its own sustainability. She pointed out, for instance, that there are only five li-
censes for up to 20 dispensaries in a state with a population of almost 20 million people. This can make access problematic, she said, partic-
ularly for upstate patients.

“When with a state of 19.5, it’s pretty big, and with only 20 dispensaries, it’s hard to get. … If you live upstate and the nearest dispensary with the brand of marijuana you need for your condition, it could be a 400-

mile trip for you. And we’re not dealing with halе-and-hearty people; we’re dealing with sick patients,” Savino said.

She noted that other drugs, such as painkill-
ers like Oxycontin, can be delivered through the mail, but federal regulations dictate that marijuana cannot be transported through the mail or through any private courier service.

Savino pointed to other issues that medical marijuana faces: deregistration from federal legaliza-
tion. For example, there is no insur-
ance coverage for medical marijuana because insurance companies are federally regulated and, therefore, cannot offer coverage.

Banking, meanwhile, is another major chal-
lenge for these businesses because of financial institutions’ hesitation to let them open ac-
counts. This means that medical marijuana has had to become a primarily cash business, with all the attendant challenges that come with that. Along these same lines, tax compli-
ance is also an issue for these businesses. Fed-

eral law still recognizes marijuana as being on the same level of illicit drugs such as LSD and heroin, and so, businesses cannot pay taxes with marijuana proceeds and cannot offset business expenses as other companies would.

Doctors, meanwhile, cannot even prescribe medical marijuana because they must be li-

densed by the Drug Enforcement Admin-
istration, a federal agency, in order to write those prescriptions. Instead, Savino explained, a doctor must make a “recommendation” for medical marijuana, and to even do that she needs to take a course and be certified by the state, which, she said, not a lot of doctors want to do. As of December 2016, New York had 771 physicians registered for a program that treats 11,291 patients.

Some of these issues are economic and some of them are political, but Savino indi-
cated that these problems are reflections of the program’s constraints and its difficulty in thriving within those constraints.

“Due to the narrowness of the program and the complications of this industry, it has been a struggle,” she said.

Savino believes that if New York’s medical marijuana program is to succeed, there need to be changes that would enable more patients to

Continued on the previous page
If you are interested in serving on the Foundation for Accounting Education’s (FAE) Board of Trustees, now is the time to submit your nomination. The Foundation for Accounting Education is a 501(c)(3) organization and an affiliated entity of the New York State Society of CPAs (NYSSCPA) that administers one of the Society’s most important strategic initiatives—to provide lifelong continuing education to CPAs. The FAE offers a wide selection of courses in accounting, auditing, taxation, industry-specific topics, ethics and advisory services in multiple formats, including live and on-demand courses online, full- and half-day conferences and seminars, on-site learning, and one- and two-credit CPE sessions provided through the NYSSCPA’s technical committees. The FAE also operates the activities of The Moynihan Fund, including its Career Opportunities in the Accounting Profession (COAP) program and the FAE scholarship program, which grants opportunities for students pursuing a college degree in accounting in New York state.

The FAE is governed by a 12-member board of trustees that includes four officers—the president, president-elect, secretary and treasurer—and eight members. The NYSSCPA’s Board of Directors Selections Subcommittee is charged with identifying qualified individuals qualified to serve on the trustee board. The Board of Directors Selections Subcommittee is currently accepting nominations for member terms beginning June 1, 2017.

Trustee responsibilities

FAE trustees typically meet four times a year to discuss the business of the Foundation. FAE trustees are responsible for approval of the FAE budget, setting the general direction for educational programs and overseeing the activities of The Moynihan Fund, as well as evaluating requests for support from the Society’s Benevolent Fund. There is no compensation for service on the FAE board.

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.

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How to submit a nomination

Those interested in serving on the FAE Board of Trustees should send an email to the attention of NYSSCPA President-elect Harold L. Deiters III at presidentelect@nysscpa.org by Monday, Feb. 13, 2017, at 5 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 NYSSCPA’s Board of Directors Selections Subcommittee, which will propose to the Society’s Board of Directors the names of individuals to fill the three FAE vacancies. The Society’s Board will submit at least six nominees to the FAE Board of Trustees. The FAE board then appoints three individuals from among the nominees by the Society’s Board to become FAE trustees.

Savino

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have access to it, which, in turn, would help the dispensaries to stay in business. Savino pointed out that, like any business, medical marijuana companies need customers in order to survive.

Part of these changes would include expanding who can recommend medical marijuana. Currently, only physicians may do so, but Savino said she made a recommendation to the New York State Department of Health to allow nurse practitioners and physician assistants to do it, too. She noted that for many, particularly those who live upstate, nurse practitioners are their main contact for health care, as the nearest physician may be very far away. She remarked that she hopes that if nurse practitioners and physician assistants can recommend medical marijuana, a sense of competition will spur physicians themselves to register for the program, too.

Along similar lines, she also recommended to the state Department of Health that doctors who are already taking part in the program should have their names publicized so that even if someone’s doctor can’t or won’t recommend medical marijuana himself, he could more easily make a referral to someone who does. She said that the department has agreed to reach out to these physicians and ask whether they want to have their participation made public.

Savino is also sponsoring a bill that would double the number of dispensaries in New York; expand the list of qualifying conditions to include things such as PTSD (posttraumatic stress disorder), chronic pain and Alzheimer’s disease; and allow for direct marketing and education campaigns about medical marijuana.

More fundamentally, she said that for the industry to truly thrive and overcome many of the challenges it currently faces, both political and economic, marijuana must be descheduled and the industry allowed to grow. More than anything, though, she repeated that marijuana must be seen as a legitimate business.

“This is how we will move forward into this century. We will stop looking at marijuana as dangerous, we will defy what the federal government says, we will prove them wrong and show that it can lead to legitimate health care policy and legitimate business, and allow it to grow and thrive,” she said.
or retailing the plant in any way, the major exchange simply will not list it—so if a marijuauna company wants to be listed, it can only deal with the plant itself in indirect way. Even if the exchange will list the company, though, Mukunda said that the Securities and Exchange Commission (SEC) requires numerous disclosures of risk factors, of which there are many for such companies. He added, too, that the SEC does not allow marijuana businesses to accelerate their filings, which is also an issue. Furthermore, even if a company does manage to get listed, clearing houses may decide they don’t want to deal with its stock. Finally, he noted that federal courts won’t enforce contracts involving these businesses, so companies must limit enforcement to state courts.

“So, being public in this industry is extremely difficult,” he said.

Taxation and valuation
Goldman pointed to taxes as another area in which there’s significant uncertainty for marijuauna-related businesses, as the industry tends to generate a lot of uncertain tax positions. Much of this uncertainty, he said, is, again, due to the fact that the federal government still considers the sale of marijuana to be illegal, which can make it difficult to predict exactly what the IRS will do as the client attempts to comply with the tax code. Another reason is that valuation itself is full of uncertainty and estimates.

“Where are you going to find the experts to value it if you have to value it on anything other than cost? Where will you find people saying, ‘This brand is worth this much?’ It’s an issue to consider,” he said.

Another panelist, Ronald L. Seigneur, a CPA whose firm specializes in marijuana businesses, said that paying taxes, in particular, can be a challenge because of Section 280E of the Internal Revenue Code, concerning expenditures in connection with the illegal sale of drugs, which prohibits any deductions or credits for any businesses trafficking in the sale of such illegal drugs, which—again—includes marijuana, for federal tax purposes.

Arkley noted, though, that the adjustment of gross receipts, with respect to the effective cost of goods sold, is not affected by this provision. Therefore he tries to fit as many items of inventory into this category by using Section 471 of the tax code, which concerns general rules for inventories—something that, he said, the IRS has been shown to tolerate if not exactly condone, given that the technique was outlined in guidance that the service released in January 2015. Arkley’s approach is to treat marijuana business clients as farmers, because the tax code states that farmers who use the accrual method are required to report inventories, which, in turn, allows them to deduct for cost of goods sold and, in turn, save some money.

Of course, businesses can’t just indiscriminately move everything into cost of goods sold—items need to be either a direct cost, like labor and materials; indirect costs, like rent, quality control or maintenance; or items capitalized in the financial statement (though Arkley noted that the statement must, however, be in conformance with U.S. generally accepted accounting principles for it to count). However, he said that this technique applies only to manufacturers and processors, not retailers, for whom the process is much more difficult. Not as many items can be put into costs of goods sold—mainly just the “cost of the stuff they bought and sold, and that’s it.” While items like the salary of a purchasing manager can be bundled in with this, he admitted that it can be rather meager compared to manufacturers and processors.

“It’s not a whole lot vs. overall cost of goods sold, but it’s something. As CPAs we have to look at what we can get into cost of goods sold,” he added.

While difficulties in following the tax code remain, and the ways a CPA can deal with them may be a little esoteric, Arkley explained that, ultimately, these are small businesses just like any other, and they have the same concerns and needs that any small business would have.

Auditing challenges
Auditors, too, need to be aware of issues particular to marijuana businesses. Given all the uncertainties and estimates that come with these types of companies, Goldman noted that auditors need to ask themselves whether it’s even possible to get sufficient and appropriate evidence on which to base their opinions. If the uncertainties are material but not pervasive, Goldman said, then the auditor could try giving a modified opinion. But if they are both material and pervasive, then the auditor may need to just disclaim the opinion. Alternately, though it may pain the auditors to do so, they may need to just say that they can’t do the audit given the constraints.

“Just because a client is required to have an audit doesn’t mean you have to provide that audit. You may [have] decided it is, in fact, a level of risk too high for your firm to take on. I hate saying that because you always try to bend over backwards for your client, but sometimes that’s the right answer for your firm,” he advised.

The possibility that the government may simply come in and shut a business down is something that needs to be in the back of the minds of CPAs when assessing how confident they are that a client can continue as a going concern. “This may mean your report will have to disclose, or make an emphasis-of-matter paragraph … about, substantial doubt; you may need to have disclosures in your state-ment about it,” Goldman said.

‘Client naiveté’
In addition, many of the risks associated with marijuana businesses can come from what Will called “client naiveté.” Some people, he said, enter the business more because they think it’s cool than because they know how to run a company. He said it’s important to impress upon clients that at the end of the day, they are running a business and cannot afford to go into things with blinders on. So, for example, he said he made sure clients use the e-verify process—a database run by the Department of Homeland Security that allows businesses to verify that their work-ers are eligible to work in the United States, as they do not want to give the federal govern-ment a reason to be looking at them for compliance. Similarly, a CPA should make sure that the client is properly managing things like Forms 1099 and W-9.

However, Will stressed the importance of CPAs protecting themselves, too. CPAs con-sidering taking on a marijuana business as a client should first perform their own risk assessment to determine whether it’s even worth having this client. If they do take the client on, he said, the CPA should have a de-tailed engagement letter written, explaining not only everything they’re doing but every-thing they’re not going to do. Also, he said, get a retainer up front: This is a risky engagement, and the CPA should get money up front so that her independence and objectivity are not impaired.

“There’s nothing that exotic about these businesses. They’re just small businesses, and most of the things I deal with [are] not 280E [tax issues], but how do I track sales tax, how do I do payroll, things like that. That has been surprising to me. They’re great clients—I love them,” he said.

New York and other state regulations
State regulations present another range of obstacles. Hillary Peckham, COO and co-founder of Etain, LLC, one of the five dis-
Symposium
Continued from page 6

pensaries in New York state, said that New York's medical marijuana law is the most restrictive in the country. For those considering setting up a legal marijuana business, the start-up costs will be high. Even setting up a dispensary doesn't come cheap. In New York state, anyone interested in establishing a registered organization that manufactures or dispenses approved marijuana medical devices must pay $10,000 for the application fee alone, and then leave a $200,000 check as a deposit.

In addition, the state regulations make staffing difficult because the law states that dispensaries cannot hire anyone with a criminal record. However, she said, the ones with the most expertise in this field are the people who have been active in the industry before: to make a pharmaceutical-grade product for patients with pharmaceutical standards, and really, there are people starting to find people who know how to do this well.

Peckham said few doctors have actually taken this course—statewide, only 800 of New York's 8,000 doctors have done so. Those 800 doctors have little competition, she said, so they are able to charge patients $300 to $1,200 per visit before they've even picked up any marijuana. Patients then have to pay for it out-of-pocket because insurance won't cover it. She also pointed out that, given the severe conditions that qualify someone for medical marijuana, roughly 5 percent of patients die each month, which leads to a lot of internal turnover from workers who simply can't deal with that amount of hardship and death.

She disclosed that when her business opened its doors at the beginning of 2016, it only had 45 patients statewide, most of whom were in New York City, while her company was based upstairs. She said that if the industry is to thrive in New York, then some of the more burdensome regulations need to go and the program needs to expand to allow more people to be eligible.

"Steps they're taking to expand the program are essential because no one is profitable in New York and no one has proven you can make this a profitable model," she said.

By contrast, Colorado, which legalized recreational marijuana in 2012, has a much stronger marijuana industry—data from the state's Department of Revenue found that tax revenues from the industry total nearly $1 billion dollars. Seigneur said that the state has 1,200 licenses, 573 dispensaries, 470 cultivation facilities and about 100 infused-product testing labs.

Marijuana businesses have to deal with the same state-federal split that bedevils similar companies in other states, as well as state-municipality splits. For instance, while Denver has 139 of the 573 total dispensaries in the state, towns just a few miles away have absolutely none and are actively against hosting them. But other municipalities are enthusiastic adopters of the industry—he mentioned a small city called Edgewater, which has two police officers and 24 dispensaries.

"They are paving their streets with cobblestones because they've got so much money," he said.

With the recent legalization of marijuana social clubs in Colorado, he said, municipalities are now also wrestling with issues such as where the drug can be smoked—mayors are weighing whether it should be allowed in, say, bookstores or cafes or coffee shops.

Colorado monitors pesticide and microbrial testing, implements packaging controls and has recently started discussing labeling requirements and portion control, Seigneur said. He cited a piece by New York Times columnist Maureen Dowd, who came to Colorado and ate a pot-laced candy bar, unaware that it consisted of 16 portions. He contrasted Colorado, which has a mature industry now, with states like New York, which only recently legalized marijuana for medical use.

"It's interesting to see where New York is today, and while I can only imagine [where it will be] next year or after, maybe there's a lesson to be learned," he said.

Some in New York are eager for the state to learn from Colorado. Another of the panelists, New York state Sen. Liz Krueger, a Democrat and a ranking member of the Senate Finance Committee, said that she has a bill that would legalize marijuana for recreational use. She said that she, herself, does not consume mari-juana, nor does she drink alcohol or smoke cigarettes, but believes that full legalization is important from a criminal justice angle.

"The biggest problem with the criminalization of marijuana in our state, as far as I can tell from my research, is it's destroying young people's lives, disproportionately young people of color," she said. She said that the current policy is costing $400 million a year for police time, court time, legal costs and jail costs, all in order to "destroy young people, disproportionately of color, through a criminal justice system that has [an] enormously negative impact on their lives, their [families'] lives and may lead to the inability to be eligible for the kind of education and jobs they need," she said.

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   ✔ Get active with your Chapter
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Risk management for the new water cooler

By EMILY FRANCHI

Since the creation of the National Labor Relations Board (NLRA) and the passage of the National Labor Relations Act (NLRA) in 1935, employers have enjoyed the protection and freedom to speak freely with one another about their employer. Back then, much of this protected speech could be overheard at the office water cooler—and much of it still is; however, with the advent of the Internet and, more specifically, social media, some of this talk has trickled over to online sites such as LinkedIn, Facebook and Twitter.

The NLRA didn’t consider social media when it was signed into law in 1935, but now that employee opinions of employers are available for the world to see, can an employer legally prohibit such commentary?

The overly broad answer is, “It depends.” Employee discussions about working conditions, safety issues, pay, etc., on social media are considered “protected concerted activity” under the NLRA and, therefore, cannot be governed by an employer. This means that an employer may not discipline, demote or terminate an employee having those types of conversations over social media. Many employers hold the misconception that this policy applies only to union employees, but it applies to all employees, union member or not.

However, if in that discussion an employee divulges proprietary information; violates the employer’s anti-harassment and discrimination policy; or is reckless, profane or threatening when referencing the employer, the employer may discipline the employee. The employee might be in violation of the policies of the employer and the social media site, though protection is decided on a case-by-case basis. Individual griping may not be protected, but sharing specific workplace concerns might be protected. Navigating the law can be like walking through a minefield.

In a recent Connecticut case, an employer was sued by a former worker who was fired after a social media posting in which she discussed her feelings about a supervisor, as well as safety concerns:

After a work-related incident, an employee criticized her supervisor in a post on Facebook, which prompted other employees to reply to the posting. The employee was suspended the next day and later fired. The NLRB issued a complaint alleging the employer was unlawfully fired for engaging in protected concerted activity when she posted on Facebook. Prior to a hearing, the case settled. (Source: NLRB.gov)

In another recent incident, a firm employee posted disparaging and threatening remarks about fellow employees online. The “conversation” was threatening, slanderous and unproductive, which led to the social site removing the employee’s post and warning the employee of the violation of the site’s policies regarding postings. The employee was subsequently terminated.

In a 2012 case against Costco Wholesale Corp., the NLRB held that the company violated employees’ rights by maintaining a policy prohibiting employees from electronically posting statements that “damage the company.” According to the NLRB, the broad statement in this policy violated the employee’s rights under the NLRA.

The first and easiest line of defense for the employer is to review all policies that may impact the legal rights of employees. Does your firm have an open-door policy that encourages employees to share concerns with management in an environment free from the fear of retaliation? Employees who feel they are heard by employers are less likely to post disparaging remarks on social media sites. However, the key is to ensure that management is open to hearing employees’ suggestions and concerns. Equally important is including a social media policy in the employee handbook that outlines expectations relating to what can and should not be shared on social media.

Social media policies are usually presented within the context of the employee handbook, along with other policies governing professional and ethical conduct. Such policies provide a number of essential guidelines, such as protecting proprietary firm information; avoiding conflicts of interest and excessive material inducements; and contributing to a safe work environment free of discrimination, harassment and retaliation. As with social media policies included in the employee handbook, the consequences for breaking the policy must be clearly spelled out.

Frequently hidden in a conduct policy are inappropriate requirements that might infringe on employees’ rights. As your firm works to draft its own social media policy, consider including a code of conduct that defines acceptable and unacceptable communications and includes certain disclosures and disclaimers. A firm’s social media policy should include specific clauses requiring employees to:

• Write in the first person;
• Post under their first and last names when discussing their employer or employer-related matters (i.e., no pseudonyms or anonymous postings); and
• Make it clear that the employee is speaking for himself or herself alone, and not on behalf of the employer.

A social media policy should prohibit employees from:

• Disclosing proprietary or confidential information, even peripherally;
• Discussing vendors or clients;
• Posting insults, slurs or obscenities; and
• Being disrespectful, bullying or picking fights.

Social media related to the workplace is a dynamic topic, and the laws are constantly evolving. To reduce the potential for a claim or lawsuit, a human resources professional should review policies relating to employee behavior and social media postings in order to consider whether they inhibit employees’ rights to discuss wages, hours and working conditions and, thus, violate rights under the law.

Emily Franchi is the loss prevention specialist for employment practices with Camico (www.camico.com). Franchi works with policyholders to reduce exposure to potential employment practices claims, and she provides education and assistance in creating professional work environments.

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

Can a CPA accept commissions?

By RONALD NASH, CPA

The CPA is an important member of a client’s advisory team who often works hard to establish the reputation of a trusted advisor. Abiding by the rules of conduct and maintaining high ethical standards will continue this trust, while practicing in an ever-increasingly fee–competitive environment.

As a result of this increasing fee pressure, many accounting firms are searching for ways to supplement fee income and boost their overall earnings, often relying on commissions. As any commission arrangement could appear to influence the judgment of a CPA, Section 1.520 of the AICPA Code of Professional Conduct (Commissions and Referral Fees) identifies when and how a CPA may accept commissions.

A member in public practice is prohibited from accepting commissions when he or she is also performing attest services for a client. Specifically, Section 1.520.001 (Commission and Referral Fees Rule) of the Code states that a member in public practice shall not accept commissions if the member or the member’s firm also performs for that client:

a. an audit or review of a financial statement; or
b. a compilation of a financial statement when the member expects, or reasonably might expect, that the third party will use the financial statement and the member’s compilation report does not disclose a lack of independence; or
c. an examination of prospective financial information.

The AICPA Code of Professional Conduct states that the prohibition applies during the period in which the CPA is engaged to perform any of the services listed in the previous paragraph and the period covered by any of the historical financial statements. In many situations, when the CPA is performing attest services, defined above, she also could be performing separate services for the owners, officers or employees of the attest client. It is permissible for the CPA to receive commissions for referring products or services to the owners, officers or employees of attest clients. The CPA must disclose the commission arrangement to the client’s owner, officer or employer. Any failure to disclose the commission would be a violation of Section 1.520.001, again, referenced earlier. In fact, disclosure to the client is an important element of this rule. Whenever a commission will be received as a result of referring a client, it is mandatory to disclose to the client the commission arrangement. Ideally, the disclosure should be in writing, but it is not required that it be so.

Following the AICPA Code of Professional Conduct ensures that the CPA is behaving in an ethical manner, by placing the interest of the client first as well as maintaining the integrity of the profession, instead of serving in a professional capacity out of personal interest.

Ronald Nash, CPA, is a member of the NYSSCPA’s Professional Ethics Committee.
M. By CHRIS GAETANO
N.Y. Fed enforcement inspector: ‘Gaping hole’ in interbank communications leaves door open for money launderers

By CHRIS GAETANO
Trusted Professional Staff

Movies like “Scarface” and TV shows such as “Narcos” glamorize drug lords for using banks to funnel their money into legitimate accounts and businesses. But money laundering is a serious crime, and CPAs must remain vigilant to avoid being used as unwitting intermediaries, according to panelists at the Foundation for Accounting Education’s recent Anti–Money Laundering Conference in Manhattan.

Money laundering is big business for criminals. The International Monetary Fund estimated in 1998 that the amount of money being laundered worldwide was between 2 percent and 5 percent of the global gross domestic product—figures that are still widely cited to this day. Based on the combined gross domestic product (GDP) of countries around the world for 2015, that ranged from $1.47 trillion to $3.68 trillion.

Steven Schrank, assistant special agent-in-charge with the Department of Homeland Security, said at the recent forum that he has seen legitimate U.S. entities—including those that move legitimate products and conduct lawful business with counterparties seeking to import their goods overseas—finding themselves unknowingly attached to illicit ventures.

It is incumbent on an accountant or auditor looking at these businesses to recognize how things like changes in payment models might be indicators of trade-based money laundering, he said.

Above all, Schrank advised, CPAs should ask themselves whether a particular transaction actually makes sense. He brought up the example of a U.S. entity exporting computers to Colombia. It would be very odd, he said, if the ultimate recipient of these computers paid for the goods with a cash counterdeposit in the United States. Similarly, he added, it would be unusual if the payment for goods were made via multiple cash deposits, particularly if these deposits were always made in different jurisdictions in sums less than $10,000, which avoids triggering bank reporting requirements.

Another thing to monitor, he said, is the origin of funds. For instance, that aforementioned U.S. exporter may be paid by wire transfer from an entity other than the one that made the agreement, or another—that allow for extensive information into a particular customer.

The United Nations Office on Drugs and Crime estimated in 2009 that the illicit drug trade was the most profitable criminal activity in the world, noting that gross profits from the cocaine business alone amounted to around $64 billion. The U.N. agency said that two-thirds of that was probably laundered, with most of the profits shifted through North America and Europe—money that is essentially taken from the legal economy for less productive ventures. Still, it found that less than 1 percent of the illicit money flow was being seized and frozen.

Jaye Jacobson, a principal and anti-money laundering compliance and enterprise risk management specialist at Ernst & Young, said one of the ways in which CPAs can identify money laundering activities is to think logically about how goods are being shipped or stored.

“If there’s $30 million worth of grain or corn, but only three container numbers listed, obviously that much corn won’t fit in three containers,” he said.

For example, the U.S. exporter, mentioned earlier, might be time to look a little more deeply into a particular customer.

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importer in the same way each time—say, a wire transfer in its own currency. In that time, however, the economy shifts gears, and the supply of U.S. dollars in that country shrinks.

“Your customer is likely having difficulty getting its hands on dollars—legitimate dollars—and your customer may say to you, ‘Look, can you help a colleague of mine? Can you please [send U.S.] dollars [instead]?’ You may be thinking that you’re doing something good, and in some sense, you may be, but you may be acting as an unlicensed bank,” he pointed out. This is a violation of New York criminal law, of federal banking law, and of the general money laundering statute.

“You need to be concerned,” warned Abrams.

The federal resources dedicated toward fighting money laundering are miniscule compared to the amount of illicit activity those resources aim to curb, but that’s changing. The Financial Action Task Force (FATF), an intergovernmental body that counts the United States among its 37 members, increased its budget for its fiscal year 2015 by 15 percent to 4 million euros—around $4.2 million—from the previous year, but almost double from 2007.

The FATF has a set of guidelines with which accountants can monitor their clients’ money laundering activity, including real estate transactions and managing bank accounts. Still, it concedes that “assessing money laundering and terrorist financing risks requires judgment and is not an exact science.”

Jacobson said that macroeconomic trends, combined with the state of the trade bank sector, have made fighting money laundering more difficult. Businesses in general, he said, are looking to be more efficient, which for trade banks has meant outsourcing processes that their banks used to do in-house, to global hubs where the bank is two or the Federal Reserve Bank of New York, branded what he felt was a trend of moving away from the transparency needed to effectively fight money laundering, at least in terms of interbank communication. He said that while there are protocols in the SWIFT (Society for Worldwide Interbank Financial Telecommunication) system—a payment system that banks use to pay each other—that allow for extensive information disclosure, many institutions don’t use them.

“We are not seeing any indication of who the real buyer and seller is. ... We’ve got a huge, gaping hole right now in our system,” he said.

Frank, who has a law enforcement background, emphasized, however, that the many partnerships between banks and law enforcement have been largely successful in rooting out money laundering schemes.

“So, the major institutions can only do so much. It’s a good place to start, but it still remains a fragmented business across many smaller institutions covering the globe.”

— Clark S. Abrams, NYC Money Laundering and Financial Investigations Unit
Trump tax reform

Continued from page 1

such as the Revenue Act of 1964, which lowered taxes from 91 percent to 70 percent for the highest bracket—were the result of not just presidential will but congressional maneuverings as well.

Jeffrey F. Allen, a member of the C Corporations Committee, noted that Trump will likely have to make compromises on his agenda, not just with Democrats but also with his fellow Republicans, who control both the Senate and House of Representatives. While Trump called for large tax cuts during his campaign, he also called for expensive spending projects, such as those on infrastructure, to boost the economy. He noted that the plan released by House Speaker Paul Ryan this past summer strove for revenue neutrality, which, Allen said, may be difficult to achieve. Tax cuts mean less government revenue, which means less for the roads, bridges and airports that Trump has pledged to build, as well as for the military buildup he’s also pitching. Financing these projects may mean fiscal stimulus measures that could balloon the budget deficit and national debt. This could be a tough sell to the speaker, according to Allen, because Ryan is ideologically opposed to most government spending, which sets him up for potential conflict with Trump’s supporters.

While Allen believes that big tax changes are coming—something akin to the 1986 reforms that took place under President Ronald Reagan—Allen also said that it’s too soon to anticipate the specifics of tax planning. Gargiulo raised a similar point—he also suggested the possibility of a 1986-style tax reform, especially considering that both legislative and executive branches are controlled by the Republican Party now, but little can be known about what those changes will be, except that they will be significant.

“So, you’d think there would be some major stuff coming out of this, probably in 2017, but what exactly it will be like, your guess is as good as mine,” Gargiulo said.

Jones was skeptical that anything too dramatic will come from a Trump administration as far as taxes go. He said that some of Trump’s proposed projects would be very expensive, which will be a tough sell to fellow members of the GOP.

“This is the same Republican House that doesn’t want to increase the debt, that was opposing every increase in the debt ceiling—so how do they reconcile that? And with a [narrow] lead in the Senate, basically, you get two Republicans who say, ‘This is too much money, and the whole thing is up in smoke,’ Jones said. “He doesn’t have the votes to do anything drastic.”

Despite so many unknowns, Arcara said that there is one certainty: Tax preparers will be busy.

“Usually, when they tinker with the IRS code—it’s always something—that always brings a tick up in business because people want to make sure they’re taking full advantage of the changes that are out there,” he explained.

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While Jeffrey F. Allen believes that big tax changes are coming—something akin to the 1986 reforms that took place under President Ronald Reagan—he said that it’s too soon to anticipate the specifics of tax planning.

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- **Outstanding CPA in Industry Award**: Recognizes CPAs who have demonstrated outstanding dedication to their industry and have made a remarkable impact upon the NYSSCPA, the profession, or the public interest.
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- **NYSSCPA Arthur J. Dixon Public Service Award**: Recognizes CPAs who have demonstrated outstanding dedication to charitable, community or civic organizations.

Please complete the 2017 Nomination Form for NYSSCPA Awards and submit it by January 6, 2017 or the form can be downloaded at www.trustedprofessional.com/nysscpaawards/2017nominationform.html.
NYSSCPA Awards

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future leaders of the Society and the profession, educational or publication efforts, public service and other activities.

Dr. Emanuel Saxe Outstanding CPA in Education Award
Pays tribute to the outstanding contribution by CPAs who have dedicated their life’s work to accounting education. These individuals have demonstrated a passion for and commitment to the profession by providing an educational foundation for future generations of CPAs. This award acknowledges excellence in teaching and a contribution to and promotion of the accounting profession.

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

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

Nominations
The form on page 12 can be used to nominate a CPA Society member for any of the above awards. Please indicate on the form the award you are nominating an individual for. A separate sheet should be attached to adequately highlight the qualifications and contributions of the nominee, particularly as they pertain to the award. An effective nomination is complete and sufficiently detailed. **Individuals cannot nominate themselves.**

Nomination forms can also be found on the Society’s website at www.nysscpa.org.

Questions
For more information, please contact Nereida Gomez at 212-719-8338, 800-697-7272, or ngomez@nysscpa.org.

In Session
The NYSSCPA Government Affairs Team has been preparing for the 2017 legislative session with events around the state where members can meet their state representatives. 1. From left, NYSSCPA Past President Scott M. Adair, NYSSCPA Political Action Committee President Kenneth Pink, Assemblyman Brian M. Kolb and Rochester Chapter President-elect Kenneth Hall at a Legislative Breakfast on Dec. 16; 2. Queens/Brooklyn Chapter Past President Rumbi Bwerinofa-Petrozzello, left, joined Queens lawmakers Sen. Toby Ann Stavisky and Assemblyman David Weprin on Nov. 1 at a Queens fund-raising event; 3. NYSSCPA President-elect Harold L. Deiters III with Senate Majority Leader John J. Flanagan at a Manhattan/Bronx Legislative Breakfast on Dec. 7 at BDO in Manhattan; 4. Sen. Liz Krueger with NYSSCPA President F. Michael Zovistoski at the Society’s Marijuana Symposium on Dec. 13. If you are interested in hosting a legislative breakfast in your own chapter, contact General Counsel Joanne Thelmo at jthelmo@nysscpa.org.
Winter Open House

Three hundred and thirty people—members of the NYSSCPA and their guests—gathered for cocktails, live music, games and conversation at the Winter Open House on Dec. 13. Performing at the event were Double Down, a local Brooklyn band, and Paris the Hip Hop Juggler.
New York City has continued to lead the region in economic growth, having recovered from the 2008 financial crisis, and what makes this recovery different from previous ones is that it’s not being led by the financial sector, according to economists from the Federal Reserve Bank of New York.

Speaking at an NYSSCPA event sponsored by the Manhattan/Bronx Chapter on Nov. 5, Fed economists Jason Bram and Richard Peach provided some context for where the economy has been and where it might be headed, both for the New York region and for the entire country.

New York City’s economy is growing 30 percent faster than that of the country as a whole, Bram said, an effect that is spilling over into the upstate region. By contrast, the U.S. economy has been growing at around a 2 percent rate. This economic expansion has translated into rapid job growth, with Bram saying that the city is having its strongest run in decades.

Times like this, he said, are usually driven by growth in the securities industry, with the financial sector having led previous economic recoveries. But not this time.

“It’s been a leader and driver of the city’s economy and yet, in this expansion, which has been the strongest expansion, there has been almost no help from the securities industry. It’s not something we would have expected, but it reflects an increasing diversification of New York City’s economy,” said Bram, whose focus at the Fed includes the economy within the vicinity of New York City.

Profits in the securities industry—which don’t include financial figures from the retail and commercial banking businesses of broker/dealers of the New York Stock Exchange—have been in a recent slide, with earnings at $9.3 billion in the January–through-June period of this year, down 18 percent from a year earlier. That’s on top of the 11 percent drop in profits to $14.3 billion for 2015, which was the third straight year of declines, according to the Office of the New York State Comptroller.

Jobs in the field across the city have also been on the decline. New York City accounted for less than a fifth of the country’s securities industry’s jobs last year, down from 32 percent in 1990, the comptroller’s office said.

The securities industry as a share of employment in New York has actually been flat this year, according to Bram, and has been bringing in less tax revenue as well. This is partly because the industry was at the heart of the economic crisis and suffered a lot of damage, said Bram. But he also noted that increased regulation, lower trading volume and more processes became

average wage in 2014 for the information services industry was the second highest in that year, at $142,000, based on the latest available state labor data.

Bram did point out, though, that the securities industry remains an important component of the New York City economy: Even with flat job growth, it still makes up 5 percent of city employment.

In terms of wages, the securities industry also provides one of the best-paying jobs in the city. The average salary in 2015 was $388,000, which was five times what was required for employment in the private sector, according to the comptroller’s office. Workers in the securities industry include stockbrokers, financial analysts, executive secretaries, accountants, auditors and office managers. Ninety percent of the industry’s jobs in the state are concentrated in New York City, according to state labor data.

Outside of tech, Bram said much of the recent job growth in New York has been in relatively low-wage jobs, such as in leisure and hospitality. While he remarked that he doesn’t think this is necessarily a bad thing, he believes that these sorts of jobs can be entryways to better-paying ones. Still, he did note that this could mean slightly less tax revenue for the state and city governments.

For the state’s fiscal year 2015–2016, tax revenue from the securities industry rose almost 15 percent from the previous year to a record $13.8 billion, according to the comptroller’s office. That includes personal income tax receipts, which come as a result of high compensation for some workers and capital gains.

“State and city taxing authorities like to see the securities industry grow rapidly because they get a ton of tax revenue from that industry. If you tell them that the securities industry isn’t growing but there’s good job growth in leisure and hospitality, [they’d say], ‘That’s nice, but we’d rather see it in securities because there’s more tax revenue,’” he said.

New York state’s growth, however, could see a few wrinkles in the future. Bram pointed to the new overtime rules from the U.S. Department of Labor that raises the threshold for overtime exemptions to $47,000 a year. (Bram’s Nov. 5 speech predicted this, he said.)

While New York’s growth is expected, but it reflects an increasing diversification of New York City’s economy, according to Peach, who helps in the development of the Fed’s forecast of the U.S. economy. For example, because of the strong dollar, exports from the United States became much more expensive for other countries, and so sales plunged for companies like Caterpillar and John Deere, which were selling equipment to countries such as Australia and Canada.

Meanwhile, falling oil prices meant fall-

ing automated contributed to the sector’s sluggishness relative to growth in other areas of the economy, such as technology.

While New York is still nowhere close to catching up with Seattle or Silicon Valley in terms of tech employment, the industry has, nonetheless, made significant contributions to job growth there, Bram said. In contrast to the finance industry’s flat employment levels, tech as a share of total employment has doubled from 2 percent to 4 percent. The growth in technology, according to the New York State Department of Labor, has brought an increase in Internet publishing, Web broadcasting and search portal companies. At the same time, there’s been an increase in money flowing into Internet companies, mainly from venture capital and angel investors. The

ed a Nov. 29 preliminary injunction from a federal court that halted the Dec. 1 implementation of the new rules until further review could be conducted.) This, he said, will have a variety of potential impacts based on how businesses react. They could simply pay out more in overtime, raise salaries to get past the exemption threshold, or hire more people to avoid having to give people overtime.

One member of the audience said that his employer decided to cut everyone’s hours so they wouldn’t have to pay overtime.

Bram also mentioned the state’s minimum wage increase to, eventually, $15 an hour. The increases will be phased in gradually from the end of 2018 to the end of 2020, starting in New York City first and then going into effect in Nassau, Suffolk and Westchester counties, before the rest of the state. Some businesses will be affected by this more than others, he said, but regardless, he added that this will have wide-ranging effects throughout the state, such as additional wage pressures.

Bram also noted that most of the state’s growth has been in the service industry. The manufacturing sector, however, actually took a hit last year due to a combination of the strong dollar and weak oil prices—twin shocks that slowed growth throughout the country.

Peach, speaking about the national macroeconomic picture as a whole, explained that while the dollar was relatively stable two years ago, 2015 brought with it a 25 percent appreciation in value, something that he said would create a substantial disturbance in any economy. At the same time, oil prices began to plummet, partially because of increased supply from Saudi Arabia and partially because of a general decline in commodities around the world.

These two things have had a reverberating impact throughout the U.S. economy, according to Peach, who helps in the development of the Fed’s forecast of the U.S. economy. For example, because of the strong dollar, exports from the United States became much more expensive for other countries, and so sales plunged for companies like Caterpillar and John Deere, which were selling equipment to countries such as Australia and Canada.

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—Jason Bram, economist, New York Federal Reserve

N.Y. Fed: New York state, city show strong growth relative to rest of U.S.

By CHRIS GAETANO
Trusted Professional Staff

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Eroding auditor independence
a concern for PCAOB member

By CHRIS GAETANO
Trusted Professional Staff

Major accounting firms have been moving away from traditional tax and audit services and into consulting and advisory services to boost earnings. In recent years, consulting has become a significant source of revenue for some firms.

For Steven B. Harris, a member of the Public Company Accounting Oversight Board (PCAOB), a well-documented shift from audit services toward consulting services for revenue raises concerns about auditor independence.

Speaking this past fall at the Foundation for Accounting Education’s SEC Conference, Harris said that the auditor’s gatekeeper role has been cemented since United States vs. Arthur Young & Co.—the 1984 case in which the Supreme Court unanimously held that “the independent auditor assumes a public responsibility transcending any employment relationship with the client”—as the result of various financial crises in the intervening years, investors have called into question auditors’ independence and quality of work.

Investors have questioned “whether the auditors were more concerned with maintaining their client relationships than serving the public,” Harris said.

Auditors have faced increasing public scrutiny over the integrity of their work following accounting fraud scandals in the past two decades, including those involving publicly traded companies such as Waste Management and Enron, and continuing through to the Ponzi scheme masteredmind by Bernie Madoff. These cases shine a spotlight on several issues: whether the auditors were truly independent, whether their fiduciary responsibility was primarily to the public, and whether being paid by a client whose work needs to be audited was free of conflict of interest.

Harris said he is “troubled” by the fact that while auditor independence rules have been in place for more than a decade, inspection staff continue to identify violations of those rules, including impermissible nonaudit services, noncompliance with partner rotation requirements, impermissible financial relationships between the auditor and the client, and indemnification provisions in engagement letters.

Some of the top accounting firms are now frequently referred to as consulting firms because their initiative in taking on consulting and advisory work has contributed significantly to overall revenue. Based on data from fiscal year 2016, as reported by Statista, advisory/consulting services accounted for 38 percent of KPMG’s revenue, compared to 36 percent for Deloitte, 32 percent for PricewaterhouseCoopers and 26 percent for Ernst & Young.

Harris said that revenue from consulting and advisory services is growing at a faster pace than audit revenue, and for a number of the largest firms, consulting and advisory revenue will soon surpass audit revenue.

“Given this trend, many wonder whether the firms will be able to resist the powerful temptation to cross-sell or market their advisory and consulting services to audit clients,” said Harris.

That concern is why the PCAOB has made it a particular point to focus on auditor independence as part of its strategic plan, released in November 2015, titled “Improving the Quality of the Audit for the Protection and Benefit of Investors,” Harris said. He observed that independence matters are a high priority for inspectors today. While the strategic plan has a heavy enforcement component, he pointed out that it also involves continuing assessment of whether and how independence-monitoring systems provide reasonable assurance of independence from audit clients, including how these systems address growing revenue from consulting and other nonaudit services across the profession.

Harris noted, too, that simply being independent wasn’t enough. Firms needed to also appear independent, as well. He urged firms to review their client relationships and to ask whether they think a reasonable investor—aware of all the relevant facts and circumstances—would conclude that the auditor is capable of exercising objective and impartial judgment on all issues encompassed within the audit.

Harris strongly encouraged firms to take action on wider audit quality issues, as well.

“I urge you to review your client relationships carefully by asking whether a reasonable investor, with knowledge of all relevant facts and circumstances, would conclude that you are capable of exercising objective and impartial judgment on all issues encompassed within the audit,” he said.

While there has been progress since the Sarbanes-Oxley Act’s implementation almost 15 years ago, he said that there remains much room for improvement in protecting investors from accounting fraud. He added that inspectors are still finding high rates of deficiencies in areas such as auditing internal controls, assessing and responding to risks of material misstatement, and accounting estimates like fair value measurements. For instance, a 2015 PCAOB report on compliance with risk assessment standards found that 26 percent of audits failed to comply with at least one of the standards in 2012. That number of noncompliance then rose to 27 percent in 2013.

Harris said that some factors in this high rate of failures include poor supervision, failure to exercise appropriate professional skepticism, ignoring contradictory evidence, poor audit planning, lack of training or knowledge of audit personnel, and tight deadlines. He pointed out that these are all items that firms can control, and he called on firms to change their practices in order to adequately address these issues.

“A mere ‘good faith’ effort at remediation is not enough,” warned Harris. “Firm leaders have proven that they can make timely and impressive changes when they so desire. This is what is expected by the PCAOB and contemplated in the Sarbanes-Oxley Act.”

He also pointed to a worrying trend of practitioners improperly altering audit documentation. Harris said that the majority of disciplinary orders for failing to cooperate with inspections include improper audit documentation, resulting in 15 firms losing their registration, and the sanctioning of 33 individuals. The PCAOB also released a staff audit alert in April to clarify for practitioners what the board expects when it comes to documentation, and to remind them that improper audit documentation comes with severe penalties.

Harris took the time to promote the PCAOB’s proposed expansion to the standard auditor’s reporting model, The Auditor’s Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion. Under the proposal, the audit report would retain the traditional pass/fail model but would also include critical audit matters and a standardized statement about the role and responsibility of the auditor—including its duty to be independent—and the length of employment of an auditor at a company.

A critical audit matter is defined by the PCAOB as “any matter that was communicated or required to be communicated to the audit committee and that: relates to accounts or disclosures that are material to the financial statements, and involved especially challenging, subjective, or complex auditor judgment.”

The latest recommendation, which was released in May, is less expansive than the 2013 proposal. The recent guidance indicates that critical audit matters are limited to what’s communicated to the audit committee—adding a materiality component to the definition of a critical audit matter, as well as narrowing the definition to only those matters that involved especially challenging, subjective or complex auditor judgment, and revising the related documentation requirement. It does, however, expand the communication requirement to direct the auditor in describing how the critical audit matter was addressed in the audit.

The NYSSCPA was not a fan of the 2013 proposal and didn’t find the second one much of an improvement. In a comment letter written in response to the most recent proposal, the Society said the inclusion of critical audit matters would serve only to confuse auditors and dilute the message of a pass/fail test. It also raised concerns that it would increase litigation risk for CPA firms.

Harris acknowledged the concerns raised about the proposal but pointed out that there is increasing support, even within the profession, for measures such as these. He also pointed out that the U.K., the EU and the International Auditing and Assurance Standards Board have all adopted an expanded audit report.

“And the reaction abroad has been generally positive, because investors believe the expanded report deepens their knowledge of important aspects of the audit and improves audit quality,” he said.

He added that he believes the United States should embrace an expanded auditor’s report, too, noting that it’s appropriate that since auditors have access to more data than ever, investors expect more information about the audit.

Harris touched on how technology is changing the process of audits, particularly analytical tools that enable auditors to examine 100 percent of a client’s transactions and track and analyze trends, as well as anomalies and risks. Technology, Harris said, is also helping to identify problematic areas or transactions, and to benchmark a company’s financial information against others based on industry, geography, size or other factors.

He warned, however, against becoming too enamored with technology, saying that it’s no replacement for inquiry and professional judgment.

“If applied properly and with due care, these technological tools could allow auditors to make better decisions and assessments throughout the audit process by enabling them to, among other things, identify fraud and operational risks, thereby improving audit quality. With deeper insights through access to more data and more incisive analytics, auditors may be better positioned to challenge management’s assertions when necessary,” said Harris.

Overall, he noted that the profession has seen many changes and will see even more in the years to come.

“Since the 1970s, the profession—even for the large firms—has faced significant changes, including changes to its business model, governance structure, audit approach, and tone and focus at the top. Auditing of public companies is no longer self-regulated. More changes are coming as a result of the revolutionary use of technology in the performance of the audit,” Harris said. “No matter what changes are ahead, I encourage you to strive to improve audit quality, be vigilant in protecting your independence from management, and not lose sight that your client is the investing public.”

Harris’s remarks at the SEC Conference can be read in their entirety on the PCAOB’s website (pcaobus.org).
NYCTax Commission to CPAs: Stop modifying TC309, or face rejection

By CHRIS GAETANO
Trusted Professional Staff

Two years ago, the NYSSCPA and the New York City Tax Commission worked together to update a key New York City property tax form—TC309, Accountant’s Certification—to bring it into compliance with generally accepted auditing standards (GAAS). But not everyone got the memo (or read The Trusted Professional)—some CPAs are still filing with the commission what had been an agreed-upon workaround that, at the time, allowed CPAs to remain in compliance with professional standards without missing the filing deadline. But what an interim solution is now obsolete, putting the certification at risk for rejection because CPAs are not properly filing the now-fixed form.

Form TC309 must accompany the income and expense schedule for rent-producing property, called the TC201, when the parcel has a tentative actual assessed valuation of $1 million or more, and income exceeding $100,000. The form must include an independent auditor’s report, which the auditor uses in order to express an opinion on the schedule of income and expenses on Form TC201 itself. Because Form TC309 is now compliant with current GAAS, altering the form in any way—such as by attaching an additional audit opinion—requires that those opinions be compared to the authorized TC309 opinion, and is causing administrative processing delays, said NYSSCPA Real Estate Committee Chair Abraham E. Haspel.

As a result, Haspel, along with several Societymembers, including Santa J. Marletta, Katelyn N. Kogan, Evan J. Della Valle and Grace G. Singer, met with New York City Tax Commission President Ellen E. Hoffman on Nov. 29 to address the problems that the unnecessarily modified forms were causing at the department.

Hoffman, in a statement, advised that the current form must not be conditioned, modified or altered in any respect, given that Form TC309 continues to comply with current professional standards, a determination that was confirmed by members of the Society’s TC309 Task Force.

“Nevertheless, in the years since then, some members have felt it necessary to attach lengthy addenda to the Form TC309, reiterating that language and expanding on it,” Hoffman said. “This practice requires our staff to review the addenda to ensure that they don’t contain language modifying the essential elements of the certification. That review adds time to the review of the application and takes away time from addressing the merits. With over 50,000 applications to process each year, that additional time becomes a burden on the agency,” explained Hoffman in her statement.

If CPAs don’t start filing the form as is, Hoffman said, the Tax Commission will begin to identify those who continue to attach such addenda to their Form TC309, with the possibility of additional enforcement steps, such as rejection, should it be deemed necessary.

Cpas with medical practitioner clients may face site audits for HIPAA compliance in 2017

By CHRIS GAETANO
Trusted Professional Staff

CPAs with medical practices as clients might be subject to a federal government audit program that went into effect in last year, which could lead to site audits in 2017, warned a speaker at the Foundation for Accounting Education’s fall Health Care Conference.

Benjamin P. Malerba, an attorney specializing in health care practices, said at the conference that theHITECH (Health Information Technology for Economic and Clinical Health) Act, which was signed into law in 2009, enabled the government to perform audits to ensure compliance with HIPAA (Health Insurance Portability and Accountability Act). The first phase of audits, he said, took place between 2011 and 2012, and focused on assessing controls and processes at medical practices.

Malerba explained that, drawing on the success of the first round of audits, the U.S. Department of Health & Human Services (DHHS), through its Office for Civil Rights (OCR), began sending letters last year informing medical practitioners that another round of audits would be coming, this time focusing on best practices for protecting private health information. He warned that these audits encompass not only medical practitioners, but business associates of medical practitioners as well, such as a CPA firm with such a practitioner as a client.

“If you represent medical practices, and you receive [personal health information] from them, you are likely to be considered a business associate,” he said. While this audit phase was limited to desk audits, he said that firms subject to them need to think about how their practices will be affected. The federal government, he elaborated, is interested in things such as whether a firm has a business associate agreement, what their HIPAA policy is, if staff training programs exist, the quality of the [HIPAA compliance] manual (or if there is a manual at all), and whether risk assessments have been performed.

While right now, he said, the OCR is only using these audits for what he said were “educational purposes,” he warned that the government has indicated that, to the extent that the audits reveal problems, “this may not just be for educational purposes anymore.”

He noted, too, that business associates of medical practices will also be included in the final phase of audits, scheduled to begin in 2017. Unlike the previous two rounds, these will be on-site audits in order to determine what type of assistance and corrective actions are needed to produce industrywide guidance on HIPAA compliance. However, he noted, the DHHS will also reserve the right to initiate a more comprehensive compliance review if the need arises.

In this respect, he added, any firm that works with a medical practice needs to determine whether they receive personal health information and, if they do, whether they comply with HIPAA.

MACRA now in effect

Malerba also pointed to another major change that CPAs need to be prepared for: the implementation of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA). The act, which took effect on Jan. 1, 2017, is expected to completely change how Medicare compensates medical practitioners.

It ends the pure fee-for-service model in favor of a “Quality Payment Program” that is intended to reward quality service.

This will mainly be done through what’s called a merit-based incentive payment system (MIPS), which, he said, every medical practitioner will be using, at least initially. Under MIPS, practitioners are graded on cost, quality, clinical practice improvement and advancing care information. Based on their score in these four areas, he said, Medicare will assign an overall MIPS score that will increase or decrease payments accordingly.

“Under this system, they will pay based on quality—your reimbursement rate will be based on those four components,” said Malerba.

Beginning in 2019, he said, some practitioners may be compensated based on alternative payment models (APM), not all of which are subject to MIPS. Those, instead, will tie payment to patient outcomes and health. Those in programs like the Medicare Savings Program could further participate in what’s called an Advanced APM, which allows them to receive a 5 percent lump sum bonus payment for years 2019–2024, as well as a higher fee schedule update for 2026 and onward. In order to qualify, though, the practitioner would need to use an APM that bases payment on quality comparably to MIPS, use certified electronic health records technology, and either bear more than nominal financial risk for monetary losses or be a medical home model under the authority of the Center for Medicare & Medicaid Innovation. While the year 2025 has no explicit incentives like those in 2019–2024 and 2026 and thereafter, qualifying APM participants would not need to report any potential negative adjustments under MIPS and would, as always, have the potential for rewards under the Advanced APMs in which they participate, according to a Centers for Medicare & Medicaid Services (CMS) spokesperson.

Either way, though, Malerba said that the old Medicare reimbursement model is no more.

“There’s no world of fee-for-service any longer. Not to say it won’t be around at all, but that will not be the primary way clinicians will be paid if MACRA is implemented in its current form,” he said.

The final rules of the program were released in November. Medical practitioners who were prepared for the new program model started collecting performance data on Jan. 1. Those who were not prepared by the start of the year can begin collecting data at any time up until Oct. 2, 2017. Regardless of their start date, practitioners participating in the program will need to send in performance data by March 31, 2018, according to CMS.gov.
CHAPTER EVENTS & CPE

Manhattan/Bronx
NextGen’s Busy Season Brunch
When: Jan. 28, 6–8 p.m.
Where: Deloitte, 7980 Jericho Turnpike, Woodbury
Cost: $50 members, $60 nonmembers
CPE: 1 (specialized knowledge)
Contact: Anthony Aronica at aaronica@graphicpaper.com

Nassau
Cybersecurity Best Practices for Middle Market Companies
When: Jan. 17, 8–10 a.m.
Where: On Parade Diner, 7980 Jericho Turnpike, Woodbury
Cost: $25 members, $30 nonmembers
CPE: 2 (specialized services)
Course Code: 29037275
Contact: Anthony Aronica at aaronica@graphicpaper.com

Review of Leases, Relocation Issue & Office Facelift
When: Jan. 20, 6–8 p.m.
Where: On Parade Diner, 7980 Jericho Turnpike, Woodbury
Cost: $25 members, $30 nonmembers
CPE: 2 (specialized services)
Course Code: 29037275
Contact: Jean Townsend at jtowsend@ct-cpas.com

New Perspectives on Accounting Practice Sales
When: Jan. 27, 8–10 a.m.
Where: On Parade Diner, 7980 Jericho Turnpike, Woodbury
Cost: $25 per person, $30 at door
Contact: Geneite Morris at geneite@morriscpas.com

Southern Tier
Southern Tier Chapter CPEs, Attorneys, and Bankers Networking Dinner
When: Jan. 19, 5:30–8 p.m.
Where: Tradition at the Glen, 4101 Watson Blvd., Johnson City
Cost: $40 per person
Contact: David Caracciolo at santel@prlcpa.com

Nassau/Suffolk Joint Events
Nassau/Suffolk Joint Chapter Annual Networking Event
When: Jan. 26, 6–9 p.m.
Where: The Fox Hollow, 7725 Jericho Turnpike, Woodbury
Cost: $75 per person ($80 at door)
Course Code: 45080709
Register online or call 800-537-3635

Demystifying Forensic Accounting
When: Feb. 16, 8–10 a.m.
Where: Wells Fargo, 58 S. Service Road, Melville
Cost: $10 per person
Course Code: 29031728
Register online or call 800-537-3635

Suffolk
Annual Tax and Economic Update
When: Jan. 25, 8–10 a.m.
Where: Empire National Bank, 1707 Veterans Highway, Islandia
Cost: Free
Course Code: 29085717
Register online or call 800-537-3635

Networking on the East End — Part 2
When: Feb. 2, 6–8 p.m.
Where: Atlantis Long Island Aquarium, 431 East Main St., Riverhead
Cost: $20 members, $30 nonmembers
Course Code: 45080710
Register online or call 800-537-3635

Westchester
The Cost of Aging
When: Jan. 18, 7:45–9:00 a.m.
Where: Skadden Arps Slate Meagher & Flom LLP, 360 Hamilton Ave., White Plains
Cost: Free
CPE: 1 (specialized knowledge)
Course Code: 29115705
Contact: Michael Herz at michaelherz@gmail.com

Westchester Chapter BBQ Networking Event
When: May 18, 5:30–8:30 p.m.
Where: Willow Ridge Country Club, 123 North Street, Harrison
Details will be available soon

Westchester Chapter Annual Golf Outing Event
When: June 12, 11 a.m.–7:30 p.m.
Where: Willow Ridge Country Club, 123 North Street, Harrison
Cost: $350 per golfer ($325 if you register before Feb. 15)
150 cocktails/buffet only
Course Code: 45110707
Contact: Jeffrey Schwartz at jschwartz@eboa.nyc

Looking back and setting goals for 2017
By BRUCE M. ZGODA
Buffalo Chapter Immediate Past President

The start of a new year is a good time to reflect upon the previous year’s accomplishments while also setting goals for the year ahead.

As a chapter, we accomplished much last year, such as spreading the word of accounting through discussion and meetings so that we can prepare the next generation of CPAs.

There are several members whom I’d like to acknowledge publicly for the recent work they’ve done in helping to shape our chapter’s future leaders.

First, our chapter’s own Joe Falbo, past NYSSCPA president, recently participated in the University of Buffalo School of Management lecture series, speaking on public accounting careers and giving back through volunteerism.

Buffalo Chapter President-elect Jim Gran marek continues to give his time and energy to the Junior Achievement program that helps our youth understand business better and inspires our high school students to become CPAs. Thanks go to my son, Todd Zgoda, president of Zgoda & Associates who sponsored the JA annual event. He, too, recognizes the importance of giving back to our great profession.

Thanks also go to Christie Adamczak for her role in publishing our NextGen newsletter. In addition to our members committed to the Society’s NextGen initiative, I would like to thank Franco Stangis and Rich Brennan for their efforts in putting together the CPAs in Industry seminar in October.

Working with a great group of people has helped us become thankful for our blessings, of how we as CPAs and accounting professionals can work together to reach our goals. Real success does not come easy, especially in the pursuit of becoming a CPA. It requires hard work, staying focused and being humble and believing in one’s self.

As Mother Teresa once said: “Be faithful in little things, for in them lies our strength.”

Think about all the tough jobs you had in high school and college that prepared you for the hard work ahead—jobs that may have not had anything to do with accounting, but actually helped you to become the professional you are today. Whether you washed dishes, waited tables, worked construction—these jobs offered you life lessons; taught you the value of hard work, can we really whether you realized it or not, laid a foundation on which your professional successes were built. Remember the people who hired you and gave you these opportunities. Be thankful somehow gave you a chance. Someday, you may be in position to give someone else that chance.

We all know that life is too short to be lived halfheartedly, and it definitely is far too short to lose ourselves in our day-to-day routines and the hustle and bustle that comes with it. Take a few minutes each day to think about how much you have been blessed in your life.

Are things perfect in your life as a CPA? Heck, no. But they aren’t that bad, either. Do you have a bed to sleep in, clean clothes to wear, food to eat? I would bet you do—and along with that, a family and people who love you.

I urge you to be kind and thoughtful and give as the saying goes: “Love begins in the heart, but it is expressed initially in our thoughts—and it is usually expressed initially in our words. But it must not stop there; it must be lived out in our actions.”

Start being more alert to our surroundings. When we do, we can make a difference. When you see someone in need when walking down the street, do not try to avoid the situation; take action. Many of us choose to put our heads down and step away. Instead, take a chance and step forward, make a difference.

The 17th century British writer John Bunyan once wrote: “You have not lived today until you have done something for someone who can never repay you.”

As I always say, Buffalo is awe- some because of its wonderful, kind and great people. Here’s to a New Year of opportunities and success.

bmz4848@aol.com
Event planning to bring out the crowds in Buffalo

By KEVIN M. PENNER
Buffalo Chapter Co-President

A s a chapter, we accomplished much last year. The CPA profession provides us with many opportunities, and for me, one is the privilege of helping to lead the Buffalo Chapter as co-president with Bruce Zielinski. Bruce has been a great mentor to me since I took office in June, as I continue to learn more about the Society. I was able to attend the Governance Forum in Albany in September, which provided me with more insight into how the Society operates and the goals that we as a group strive to achieve. I hope to learn as much as I can in my duties leading this chapter before my term ends in May. I’m hopeful that in the next few years, I will learn more about the Society. I was able to attend my first Council meeting in November, and it was a great opportunity for Chapter members to network with legislative figures. John J. Flanagan, Majority Leader of the New York State Senate, was in attendance. Bill McCarthy, a lobbyist from government relations firm Bolton-St. John, spoke about the different strategies of lobbying. He also talked about the ways in which CPAs can help, such as communicating their views with local legislators who could assist with the bills that the Society seeks to pass. Also in December, Society Director Christie Adamczak led the session, and Elliot Hendler shared with the Chapter Board an overview of a session from the AICPA’s Fall Council meeting, called “Ready for the Next,” referring to challenges and developments—current and potential—facing the profession. These included the formation of a new international professional organization; cybersecurity; accelerating rates of technological change; global, tax and regulatory issues; and attracting and keeping talent. All of the topics related to maintaining and enhancing the relevance of the CPA and the profession. We thank Elliot for his informative report.

In November, the chapter hosted its annual economic update, led by Federal Reserve Bank of New York economic researchers Richard Peach and John Bram. The speakers provided national, state and local economic updates, an asset for CPAs operating in today’s environment. The event was well attended and educational, and the speakers were excellent. Many thanks to NYSSCPA and Manhattan/Bronx Chapter Past President J. Michael Kirkland for organizing this superb annual event.

The world of accounting continues to be more complicated as demands for greater expertise grow stronger. The Society remains committed to providing professionals with the resources they need to offer their clients and employers high-quality service. I would encourage you to get involved and join the Society and our local chapter. Be part of the solution.

Preparing for challenges in the new year

By ALAN WILLINGER
Manhattan/Bronx President

W inter has come. Football is ending. Oh, how will we ever survive? Well, we can thank the busy tax-filing season to get us through until baseball’s start. Many of you are probably meeting with clients and planning for the year ahead, while others are monitoring the possible impact of new legislation with the change of administration in Washington, D.C.

The Manhattan/Bronx Chapter’s members have been hard at work preparing for the new year. Our NextGen Committee will host a Busy Season Brunch on Feb. 18. This is an opportunity for young professionals from many different backgrounds to open up this event—which had been exclusively public accounting employees—to all young professionals. The Young Professionals Golf Tournament typifies the type of event we want to hold each year, as a great opportunity for professionals throughout the Buffalo area to get out of the office for a day and network with peers from a varying range of professions.

While NextGen Buffalo is a chapter priority, we also recently hosted a series of successful CPE and networking sessions, one of the highlights being our annual Ethics CPE at Salavatore’s Italian Gardens in October. Society Professional Ethics Committee Chair Renee Rampulla led the session, and more than 100 CPAs attended. She did a great job of providing practical applications of various ethical dilemmas and requirements that CPAs face on a recurring basis. We’re planning more events for 2017, so watch this space and check our website for the latest Buffalo Chapter information.

Bringing students and the accounting world together

By JENNIFER PICKETT
Northeast Chapter President-elect

It was a dark and stormy night…but the weather did not deter 60 students from six Capital Region colleges who are interested in accounting from attending the Northeast Chapter Student Night dinner in late October at the Century House in Latham, to learn more about the profession. Professionals from KPMG; BST & Co.; CPAs, LLP; Marvin and Company; The Bonadio Group; Michael A. Tobin & Associates; LCS&Z, LLP; Di UHY LLP; General Electric; and John J. Graham, CPA, joined students and shared their experiences in accounting.

This year, our panel included Joseph Mc-Donald, the CFO of Clarkson University Capital Region Campus (formerly Union Graduate School); Timothy J. Doyle, a partner at The Bonadio Group; Christopher J. Rosett, our forensic accounting specialist; and Chester H. Brearey, the graduate school director at Siena College. Each of them spoke about his experiences, including Doyle, who began his career as an accountant in industry and then took classes at night as preparation to be a CPA. Brearey talked about his work at a large, multinational firm, and he advised students to discover their strengths. Rosett delivered a presentation about his experience in forensic accounting.

A delicious dinner for more than 100 people, Henry Ware, the Finance Integration Leader at GE Power & Water, spoke about his journey from public accounting to worldwide finance. After a delicious dinner for more than 80 golfers registered, representing a broad mix of CPAs, financial advisors, attorneys and bankers. In 2015, there was a push to open up this event—which had been exclusively public accounting employees—to all young professionals.

The Young Professionals Golf Tournament typifies the type of event we want to hold each year, as a great opportunity for professionals throughout the Buffalo area to get out of the office for a day and network with peers from a varying range of professions.
Raising funds for worthy causes

By SHARON SICA-COSTANZO
Staten Island Chapter President

I t has been a busy time for us these past few months, with activities ranging from fundraising to scheduling CPE events. About 200 students from many high schools across the borough participated in our Annual World of Accounting event at the College of Staten Island on Oct. 21. Speakers included a CPA who formerly worked as an FBI agent, as well as college students majoring in accounting. Our main goal was to make the students look at accounting for what it truly is, a career that provides many opportunities. We received a lot of great feedback about how this year’s event was the best it’s been, and we hope that it helped to accomplish our goal in reaching out to the community and encouraging the youth to join our profession.

At our Nov. 3 event, the Annual Education Night for College Students at Li Greci’s Staten catering hall, we talked with students about the requirements for the CPA exam and what it takes to prepare and become licensed. Chapter members volunteered their time to talk individually with the students, and several speakers talked about their careers and how accounting can take them into many different directions after graduation.

That same weekend we held our Annual Bowl-A-Thon to benefit the fight against Batten Disease, a fatal childhood illness. It was a fun day for all with bowling, pizza and prizes, and we raised more than $16,000! To date, the chapter has donated more than $280,000 to the Batten Disease Support and Research Association. If you would like to know more and lend your support, please reach out to me.

We have also worked on setting up the Staten Island Scholarship Committee, which I chaired as chapter president. We will award a scholarship through the FAE’s Excellence in Accounting Scholarship Program in the spring of 2017. I am very excited about establishing this scholarship, and while we are still in the middle of our fundraising drive, we hope to raise enough money to make a small yet positive impact on a talented student who is struggling to pay their tuition. Thank you to all who donated.

You can send your donation to: The Foundation for Accounting Education, PO Box 10490, Uniondale, NY 11555-0490. Please make your check payable to “Foundation for Accounting Education,” and write in the memo line “SI Scholarship.” You can also call (800) 537-3635 to make a contribution over the phone. Be sure to mention code “SI Scholarship.” Your contribution is tax deductible to the extent provided by federal law.

Excited for the new year

By JORDAN FRITZ
Rochester Chapter President

I hope you all had a wonderful holiday season! It’s hard to believe that we are already more than halfway through this board year! During my time as president, I have been able to really see how many great people we have in our chapter and on our board.

We even had members of our board and committees recognized by the Rochester community for various awards. Michelle L. Staebell, chair of our Education Committee, was nominated as a ‘Woman to Watch’ by the Democrat & Chronicle, our local newspaper, in November. This series highlights outstanding young women who are on the rise in the Rochester community. In addition, Christopher R. Piedici, a NextGen Committee member, is a 2016 Rochester Business Journal 40 Under 40 honoree. Each year, this award recognizes 40 men and women under 40 years of age who have achieved professional success and are involved in the community. Congratulations to you both!

Not only do we have great people in the Rochester Chapter, but we have great events. We had several wonderful events in the fall and have more coming up. The first event of the new year was the annual NextGen Volleyball Tournament on Saturday, Jan. 7, at Hot Shots Volleyball. We also have a new social event this year—a chapter night out at the Amerks game. (That’s the home of our local ice hockey team, the Rochester Americans, for those of you outside the area.) Join us on Friday, Jan. 23, when we start the evening with dinner at Dinosaur Bar-B-Que and then head over to the Blue Cross Arena to have fun and watch the game together. We are looking forward to this event and to being able to socialize with other chapter members before everyone gets too busy meeting tax-filing and audit deadlines. Please visit the chapter page on the NYSSCPA website for more information on how to attend. I look forward to seeing you there!

I hope all of you are having a great start to 2017, and for those of you who are tax practitioners or in a public firm, I wish you the best of luck during the upcoming busy season.

Planning for new directions

By CATHERINE M. CENSULLO
Westchester Chapter President

W e are off and running at the start of 2017! This is certainly an exciting year, with a lot of changes as well as a lot of new challenges to face. We now have a new president in the Oval Office who has plans to make many changes nationwide, and a desire to implement them quickly. You have already seen a surge in the stock market in anticipation of the new direction to come.

And, of course, with change comes opportunity. So, how can you prepare to take advantage of the opportunities that will present themselves in 2017? And how will you lead your team so that you will maximize your results? A little bit of planning can take you a long way to get the most out of the opportunities that will come your way.

We started off the year with three key planning events. The first took place on Jan. 9, focusing on the CPA firm of the future. Alan G. Badey spoke about the factors that can drive a firm’s profitability and lead to its success. He provided a treasure trove of creative ideas for the group to consider.

The following day, the Allied Professional Group of Westchester met at the Doral Arrowwood for a networking event. Chapter members mingled with their fellow CPAs, financial planners and attorneys to forge new relationships for working together that will help them in 2017 and beyond.

They were updated on the business and economic direction of Westchester County by one of our legislative leaders.

The third key event took place on Jan. 17, also at the Doral Arrowwood. This event, exclusively for managing partners and solo practitioners in the chapter, included a meet-and-greet with the statewide NYSSCPA leadership team. It kept our channel of communications open with key membership leaders.

We also addressed another topic that is of great concern to many of your clients: the cost of aging. How can your clients plan for that? What resources do they need to set aside? How will they pay for it? What strategies do they need to have in place to see that things go smoothly for them? On Jan. 18, the Join the Accountants in Industry meeting addressed those concerns.

This was just a bright and early start to help you get a leg up on 2017. There is much more to come this year. We will be holding our Tax Hodline again this year, and are sponsoring a new networking barbeque this spring.

Save the date of May 18 for an evening networking barbeque, and June 12 for our Annual Golf Outing Event at Willow Ridge Country Club. Sign up for the outing before Feb. 15 to be eligible for the discounted rate.

We are considering a new and exciting golf venue for our annual golf outing and may even hold it a bit earlier this year. We will keep you posted.

I know you will have a great year, and those of you who plan best for it will achieve the greatest results. I wish you and your families the very best of peace, prosperity, opportunity, good health and success in 2017.

I look forward to seeing you at our upcoming events. Thank you for making Westchester such a great chapter, and have a terrific start to 2017.
What do you anticipate will be your biggest headache in 2017?

PHILIP J. LONDON | Partner | Manhattan

I think the biggest headache, from a New York state tax standpoint, will be dealing with the continued implementation of the new regulations and corporate law that we started dealing with in 2015. Moving into 2016, there are several unanswered questions regarding the implementation of some of the NOL [net operating loss] carryforwards that even the city admits they haven't been able to figure out how to deal with. The law, as it stands, just doesn't address it. Say you have a C corporation in New York City that used some of it in NOL in 2015. Now, let's say in 2016, that corporation elects S status. Because New York City's C corporations and S corporations have different notation sections, switches from one section to another and how to handle an NOL carryforward from 2016 from something that was used in 2015 are not addressed. For me, that's one of the biggest headaches that we'll continue having to deal with—application of the city law of S v. C corporations. But overall, I think the biggest problem will be whatever changes there are in the federal tax code, now that there's going to be a new president, and how that will change the New York state and New York City laws, since both of those basically start with federal taxable income, or federal gross adjusted income minus federal deductions. If the deductions and rates change, how do we apply and plan from one year to the next?

CRAIG T. GOODMAN | Director | Manhattan

From a financial accounting standards perspective, the hottest topics are going to be the conversations with clients about ASU [Accounting Standards Update] 2014-15, Presentation of Financial Statements—Going Concern (Subtopic 205-40): Disclosure of Uncertainties About An Entity's Ability to Continue as a Going Concern, and the upcoming changes to accounting for the revenue recognition standard and leasing.

ASU 2014-15 is effective for all companies in the first annual period ending after Dec. 15, 2016. Conceptually, it shifts the responsibility for evaluating an entity's ability to continue as a going concern from the auditor to reporting entity management, as the requirement is now incorporated into GAAP [U.S. Generally Accepted Accounting Principles]. The standards present new reporting and analysis requirements for management.

Both the revenue recognition standard and the leasing standard probably require more lead time and thought than any other recent standard, simply because it's such a dramatic change. What I'm seeing is, outside of the attest services part of the profession, clients aren't focusing on it, and a lot of times, clients aren't that educated in it. What you're seeing is the larger clients, the public clients, they're fine—they have to be on top of this. But the private clients are the ones I'm not sure are anticipating the effect. We want to give our clients a lot of lead time, because it's tough to talk about what will change in your books, how your financial statements will change. But it's time to make adjustments. I think a lot of the reporting entities are used to doing things like this on a last-minute basis, but these two standards do not allow for that. They need lead times.

I think the difficulty people have with the revenue recognition standard is that it's very complex and doesn’t have a lot of bright lines. All the existing industry guidance will go away when this becomes effective, and I think that will need a change in mind-set. And for leases, I think people aren’t used to thinking about leases, and you say the word “leases,” and companies tend to think of renting office space. But it can also include things like telephones, computer equipment, fork lifts, factory equipment—all kinds of leases that no one has paid attention to for a long time. You could wind up in situations where debt covenants are violated, debt-to-equity ratios get thrown off and contractual arrangements need to be reworked, and these things need to be addressed.

Most of the other standards that the [Financial Accounting Standards Board] has issued are not that time-consuming, but revenue recognition and leasing present a fundamental change in the way the profession has accounted for these two areas.

JACK VIVINETTO | CFO | Manhattan

My initial concern as a CFO for a privately held corporation is 2017 tax planning for the many tax proposals that President-elect Donald Trump ran on during his campaign—in particular, the proposed lower federal corporate rate of 15 percent. Of course, a federal rate of 15 percent is welcome. However, do I base my quarterly estimated tax payments on 15 percent or, perhaps, play it safe and use the current and effective rate? What about the proposed immediate accelerated tax write-off for property, plant and equipment? Do I, once again, pay my estimates based on the campaign proposal or on what is law at the time? For the time being, in anticipation of lower taxes—just how low we do not know—it is safe to do the traditional tax planning by accelerating deductions in 2016 and, if possible, defer income until 2017.

KATHRYN H. VUNIC | Sole Practitioner | Manhattan

Number one is, obviously, the change in the administration. There are a lot of tax changes up in the air that may happen or may not, and that really requires a lot more focus on making sure you're up-to-date on what may or may not happen in order to help guide clients with tax planning. If you want to speak to clients about tax planning, it will be very important to be aware of what may or may not be happening, so that you can have those conversations in the first place.

The other thing is continuing to be more and more of a headache for individual tax preparers is foreign reporting and tax issues. So many more clients are having exposure to international assets and the filing requirements that go with them. And a lot of the time, clients are not even aware that they have to report, so they aren't always forthcoming in telling you about an asset they're holding abroad or a trust they set up in another country. It can be a headache just to make sure you all the questions you need to ask to see if there is anything foreign you need to be aware of.

I think the next major headache we're facing is identity theft. The problem isn't just the possibility that your clients could get their identity stolen, but the extra bureaucracy that has come with the safeguards against it. I've had clients who were anticipating large refunds, and the IRS wouldn't release those refunds unless the client talked to them, vs. the CPA they hired to field issues like this on their behalf. Another wrinkle is making sure that whatever software and encryption you're using is up-to-date, so identity theft doesn't become a headache for you, personally or for your firm.

MICHAEL J. CORKERY | Partner | Melville

I think staffing, for us, has become a concern, especially on the audit side. You try to run a lean practice, and then client opportunities come up and you have to know how to keep and retain the quality people you have by offering opportunities to accelerate their careers, continuing education and professional growth, as well as how to find new quality people when you're competing with all those other firms in the marketplace for what seems like those same senior to manager levels. So, that's a really big issue I think midsize firms like ours are facing and will keep facing in 2017.

There's also the matter of making sure you're up-to-date on the latest accounting pronouncements, the most significant one being the upcoming revenue recognition standard. You need to make sure that clients are aware of what they need to do before it hits.

Then there was the election, which was a big concern initially, and it's still unknown what's going to happen when Trump takes over. What will be the tax impact? The health care impact? Anytime there's uncertainty, that really affects clients. People like predictability for their businesses, but planning and budgeting can be tough when there are so many unknowns keeping them up at night.
### Specialized Knowledge

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