

Lagniappe

March 2011

Volume 36, Number 8

A Publication for
LOUISIANA
CERTIFIED
PUBLIC
ACCOUNTANTS

The Problem with Evergreen Engagement Letters

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Volume 36 Number 8

Lagniappe

The Member Magazine for the
**SOCIETY of LOUISIANA
CERTIFIED PUBLIC ACCOUNTANTS**

Lagniappe is also available online at
<http://www.lcpa.org/lagniappe.html>.

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Lagniappe is published nine times a year and is the official publication of the Society of Louisiana CPAs, a nonprofit professional association serving the interests of over 6,300 members and the public. Opinions expressed do not necessarily reflect those of the Society.

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Cover Story

The Problem with Evergreen Engagement Letters

4 Engagement letters are issued routinely and are strongly encouraged by professional standards when rendering certain types of professional services. In the interest of saving time, some CPA firms issue *self-renewing* or *evergreen* engagement letters that indicate services will continue until either party terminates the professional relationship. This article addresses the dangers of such letters and how they can weaken a statute of limitations defense in the event of a claim.



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Highlights

Working Group Formed to Tackle Taxation of Digital Transactions

The Louisiana Department of Revenue has announced the formation of a working group to assist the department in developing policy regarding the taxation of certain digital transactions, including the taxation of transactions addressed in Revenue Ruling 10-001 and Revenue Information Bulletin 10-015. The working group is composed of department employees, industry representatives, and taxpayer representatives, including LCPA members.

The first meeting was held Monday, March 14 to address administrative matters. The next meeting is scheduled Tuesday, April 5. A written report including final recommendations and findings is due from the working group by June 30, 2011. The group will cease to exist on that same day.

IRS Announces Steps to Help Struggling Taxpayers

The Internal Revenue Service has announced a series of new steps to help struggling taxpayers get a fresh start with their tax liabilities.

The goal is to help individuals and small businesses meet their tax obligations, without adding unnecessary burden to taxpayers. Specifically, the IRS is announcing new policies and programs to help taxpayers pay back taxes and avoid tax liens.

The steps center on the IRS making important changes to its lien filing practices that will lessen the negative impact on taxpayers. The changes include:

- ▶ Significantly increasing the dollar threshold when liens are generally issued, resulting in fewer tax liens.
- ▶ Making it easier for taxpayers to obtain lien withdrawals after paying a tax bill.
- ▶ Withdrawing liens in most cases where a taxpayer enters into a Direct Debit Installment Agreement.
- ▶ Creating easier access to Installment Agreements for more struggling small businesses.
- ▶ Expanding a streamlined Offer in Compromise program to cover more taxpayers.

For more information, visit the IRS website, www.irs.gov.

International Administration of the Uniform CPA Examination to Begin August 2011

The AICPA, NASBA, and Prometric announced that the CPA Exam will be offered in Bahrain, Japan, Kuwait, Lebanon, and the United Arab Emirates, beginning August 1 of this year. Candidates meeting residency criteria and state board eligibility requirements will be allowed to sit for the Exam in those countries. Registration through participating state boards will start in May.

The U.S. CPA exam is being offered internationally for the first time as a service to foreign nationals in response to rapidly escalating international demand for U.S. CPA licensure. In 2010, more than 10,000 international candidates traveled to the U.S. to take the U.S. CPA exam, a 22 percent increase from 2009. Nearly one-third of international candidates came from Japan.

The international exam, which will be offered in English, is the same as the U.S. exam administered by the AICPA, NASBA, and Prometric in the United States. Future testing months during which the exam will be administered in Japan and the Middle East will be November 2011 and February, May 2012. Licensure requirements for international candidates are the same as for U.S. CPA candidates.

Louisiana Tax Returns Feature Check Box for MS Donation

National Multiple Sclerosis Society, Louisiana has a Tax Check Off on the Louisiana IT 540 Income Tax Return for Tax Year 2010. The check box allows taxpayers to donate \$1 or more to support

the continuum of high quality programs and services provided to all those living with multiple sclerosis in Louisiana. National Multiple Sclerosis Society, Louisiana recently exhibited at the 2010 LCPA Tax Conference.

Mark Harris Elected NASBA Vice Chair

LCPA member Mark Harris, of Lafayette, was elected as the Vice Chair of the National Association of State Boards of Accountancy (NASBA) Board of Directors for 2010-2011.

Mark is a current member of the Advisory Board of NASBA's Center for the Public Trust. He previously served on the AICPA's Peer Review Board and Board of Examiners Score Scale Task Force.

A graduate of the University of Louisiana – Lafayette, Mark has served on the Board of Directors of the Society of Louisiana CPA and has been an active member of the State Board of CPAs of Louisiana for over 13 years.

Tax Season Ads Running in Major Print Outlets

To help promote CPAs as the premier providers of tax services, LCPA has placed a series of three ads in the Sunday editions of *Lafayette Advertiser*, *Monroe News-Star*, *Alexandria Daily Town Talk*, *Shreveport Times*, *New Orleans Times-Picayune*, *Baton Rouge Advocate*, and *Lake Charles American Press*.

The ads feature the headline, "Your CPA. Few prepare as rigorously," and highlight the CPA's qualifications over other tax preparers. Ads also include a link to LCPA's CPA Locator Service.



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The Problem with Evergreen Engagement Letters

Accountants know the importance of reaching an understanding with clients regarding professional services to be performed prior to the start of the engagement. Engagement letters are issued routinely and are strongly encouraged by professional standards when rendering certain types of professional services. Those letters can be critical to the defense of accountants who are sued for malpractice, especially when they define the scope of services and the time period of the engagement.

Clients sometimes attempt to assert accounting malpractice claims several years after the service they allegedly relied upon was rendered. In many cases, these claims would be time-barred based upon applicable state statutes of limitations. A successful statute of limitations defense may be dependent upon producing evidence that an engagement ended on a specific date. An engagement letter that defines the scope of services and the time period of the engagement and has been signed by both the client and the accounting firm can serve as such evidence.

In the interest of saving time, some CPA firms issue engagement letters that indicate services will continue until either party terminates the professional relationship. These types of engagement letters, often referred to as *self-renewing* or *evergreen* letters, do not indicate that the service concludes upon delivery of the accountant's work product or advice, or at the end of a specified time period. As a result, in the event of a claim, evergreen letters have the potential to jeopardize a successful statute of limitations defense.

Statute of Limitations

The statute of limitations establishes a time limit for the institution of legal proceedings, including those against professionals. The statute of limitations for accounting malpractice actions varies among the states, as most states did not adopt the Uniform Accountancy Act,¹ which would provide a uniform statute of limitations.

The determination of when the statute of limitations is triggered can be complicated. The statute may begin to run upon the discovery of an error or when the plaintiff has incurred damage. Some states have enacted limitations provisions called statutes of repose that bar actions after a specified time period – for example, six years from the date of the act or omission, regardless of discovery. Some jurisdictions provide for a tolling, or interruption, of the running of the time period if there is continuous representation of the client by the accountant. One rationale given is that it may be difficult to discover the error or damage while the professional is still representing the client.

A defense based on the statute of limitations can be asserted in response to any type of professional malpractice allegation. However, the defense may be weakened if a firm uses an evergreen or multiyear engagement letter.

Determining the application of statutes of limitation and repose to professional liability claims is both case and jurisdiction specific, and is subject to court interpretation of applicable statutory, regulatory and case law. Competent legal counsel should always be consulted regarding such matters.

Continuous Representation

The continuous representation doctrine grew out of the doctrine established in medical malpractice cases termed “continuous treatment.” As defined in the medical malpractice arena, continuous treatment occurs when the patient continues to be treated by the same doctor or hospital for the condition that gives rise to the claim. In this instance, the statute of limitations is “tolled,” or suspended, until the treatment is concluded.² One rationale behind this doctrine is that it relieves the patient of the burden of pursuing a timely claim within the statute of limitations while the patient is still receiving treatment from the health care provider.

A key element of the continuous treatment doctrine is the differentiation between “continuous” versus “continuing.” This differentiation was established in a medical malpractice case titled *Borgia v. City of New York*.³ In this case, the court decided that application of the continuous treatment doctrine is limited to instances in which the patient continues to receive treatment for the illness or injury giving rise to the claim, and this treatment continues after the incident that led to the claim. This differs from the continuity of a regular doctor-patient relationship that can evolve over time and involve treatment for other illnesses.⁴ Additionally, to meet the requirements of the continuous treatment doctrine, both parties must be aware of the necessity of continuing treatment related to the specific illness or injury giving rise to the claim.

Courts in some jurisdictions have recently begun to apply the continu-

ous treatment doctrine to other types of professional malpractice cases, including accounting malpractice. As applied by courts to other professional malpractice cases, the medical term “treatment” has been replaced with “representation” to more accurately capture the type of services provided to clients by other professionals.

The Court’s View

The application of the continuous representation doctrine to accounting malpractice cases is a relatively recent phenomenon. Courts have ruled differently on its applicability based on the facts and circumstances of each case. However, one of the consistent factors considered by the courts is the use of annual signed engagement letters. Consider the following cases:

◆ In *Williamson v. PricewaterhouseCoopers LLP (PwC)*, PwC was engaged by Williamson to perform an annual financial statement audit of a hedge fund for the years 1990 through 2000. In 2002, the client discovered that the fund managers had overstated the value of its assets, and a significant write down was needed. The client filed suit against PwC in New York in July 2004, alleging accounting malpractice.

The New York statute of limitations applicable to accounting professional liability claims such as this is three years from the date of the alleged malpractice, which is either the date the work product was received by the client or the date the client allegedly relied upon the accountant’s services or advice. The last audit opinion was issued by PwC in early 2001 on the fund’s 2000 financial statements. Therefore, PwC moved to have the case dismissed on statute of limitations grounds.

In June 2007, New York’s highest court declined to apply the continuous representation doctrine and dismissed the complaint. The court reasoned that PwC had obtained signed engagement letters for each of the audits performed, and there was sufficient evidence that both PwC and management believed each annual audit to be a separate and “discrete” or distinct service that ended when the audit opinion was issued.⁵ A new service would commence the following year when the next engagement letter was signed by the fund and PwC.

◆ In *Symbol Technologies, Inc. v. Deloitte & Touche, LLP (Deloitte)*, the facts and holding clearly point to the benefit of obtaining a signed engagement letter for each service performed. Deloitte

These types of engagement letters, often referred to as *self-renewing* or *evergreen* letters, do not indicate that the service concludes upon delivery of the accountant’s work product or advice, or at the end of a specified time period. As a result, in the event of a claim, evergreen letters have the potential to jeopardize a successful statute of limitations defense.

performed annual financial statement audits for Symbol Technologies for the years 1998 through 2003. The firm obtained signed engagement letters for each audit through 2001. In late 2002, management of Symbol Technologies determined that earnings were overstated for the years ended 1998 through 2001. The 1998 through 2001 financial statements were restated in 2003. Deloitte performed these restatement services without obtaining a new signed engagement letter.

In 2005, Symbol Technologies sued Deloitte for malpractice in New York. Because the last audit opinion was issued in March 2002 and the suit was filed in November 2005, Deloitte moved to have the case dismissed based on the statute of limitations. However, because no engagement letter was issued by Deloitte governing the restatement work performed during 2003, the court agreed with Symbol Technologies that this was a continuation of the work performed for 1998 through 2001, and the motion to dismiss was denied.⁶

◆ Another case illustrating this principle is *Apple Bank for Savings (Apple) v. PricewaterhouseCoopers LLP*. In that case, PwC provided tax and financial statement audit services to Apple from the early 1990s through 2004. In 2000, Apple consulted with PwC concerning the tax implications of various stock redemption strategies. PwC determined that the bank’s planned treatment of the redemptions would not result in a negative tax impact for Apple. Based on this advice, Apple followed its planned redemption strategy from 2000 through 2004. In 2005, PwC re-evaluated the redemption strategy, determined that there was additional taxable income, and advised Apple to file amended tax returns to recognize it. These amended filings resulted in the imposition of an additional \$12 million in taxes, penalties and interest.

In 2006, Apple filed a malpractice claim against PwC in New York related to the 2000 through 2004 audits and the preparation of the 2000 through 2003 tax returns. PwC filed a motion to dismiss the claims related to the 2000 through 2002 audit and tax work based on a statute of limitations defense. PwC had obtained signed engagement letters

for each of the annual audits, which stated that any additional services would be covered by a separate engagement letter.⁷

The court ruled that the claims related to the 2000 through 2002 audits were time-barred under the statute of limitations. However, the engagement letters did not discuss tax services. Instead, PwC provided annual written fee estimates to Apple, which referenced “additional consultations regarding tax planning ideas,” and billed the service separately throughout the year.⁸ Based on this fact, the court was unable to determine if each year’s tax return preparation was a separate and “discrete” or distinct service, independent of services provided in previous engagements. As a result, the court did not dismiss the claims related to the tax work. These claims were dismissed in 2010 when the appeals court determined that there was no expectation on the part of either Apple or PwC that after the initial decision, PwC would continue to advise Apple on the tax implications of the stock redemptions.⁹

These cases illustrate the importance of obtaining annual signed engagement letters that clearly define the scope and time period of each engagement in supporting a successful statute of limitations defense.

Annual Agreements Worth the Effort

Some firms consider obtaining annual engagement letters a challenge due to the time it takes to prepare and explain or negotiate the terms with the client. That is why many firms have opted to use *evergreen* engagement letters, which typically include language indicating that the terms of the letter will automatically renew annually until the firm or client management terminates the engagement or takes other action to change the terms. The firm may provide an estimate of fees or an addendum that outlines fees for the year. As illustrated in the *Apple Bank for Savings* case, these types of letters could be construed by a court as indicative of continuous representation, weakening

(Continued on page 6)

(Engagement Letters cont. from page 5)

available statute of limitation defenses in the event of a malpractice claim.

Clients such as larger corporations, not-for-profit organizations and governments may solicit multiyear bids from CPA firms to perform tax and audit services. In such instances, signed engagement letters should be obtained annually from these clients. If necessary, an appendix or separate statement of work can be added defining the fees and other terms and conditions applicable to the other years covered in the bid. The engagement letter should clearly state that the engagement will conclude upon delivery of the work product for the subject year (e.g., upon delivery of the auditor's report on that year's financial statements).

Another challenge presents itself when requests for new services grow out of existing services. When a client requests an additional service, the firm should consider issuing an addendum describing the additional service, noting it will be governed by the terms and conditions of the original engagement letter. If the additional services are significant, the firm should consider obtaining a new signed engagement letter covering only these additional services.

An audit of restated financial statements should be treated as a new engagement. Issuing a new engagement letter establishes that this is a new engagement rather than a re-audit of existing financial statements. As always, the firm should consult with an attorney familiar with accounting engagements when drafting engagement letters.

Obtaining signed annual engagement letters can be a key element to a successful defense of an accounting malpractice claim. A properly executed engagement letter can enable the accounting firm's defense team to either deflect litigation or have the lawsuit dismissed at the beginning of the litigation. Alternatively, the lack of a signed annual engagement letter can open the door for an otherwise time-barred claim to be pursued in court.

Executive Summary

Some firms have opted to use ever-green or self-renewing engagement letters to save time in the issuance of engagement letters. Such letters can

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The continuous representation doctrine grew out of the doctrine established in medical malpractice cases, termed "continuous treatment." As defined in the medical malpractice arena, continuous treatment occurs when the patient continues to be treated by the same doctor or hospital for the condition that gives rise to the claim. In this instance, the statute of limitations is "tolled," or suspended, until the treatment is concluded.

Courts in some jurisdictions have applied the continuous treatment doctrine to other professional malpractice cases, including accounting malpractice. In such cases, the medical term "treatment" has been replaced with "representation" to more accurately capture the type of services provided to clients by other professionals. Courts have ruled differently on its applicability based on the facts and circumstances of each case. However, one of the consistent factors considered by courts is the use of annual signed engagement letters.

Signed annual engagement letters which clearly define the scope and time period of accounting services engagements can serve as critical evidence in a successful statute of limitations defense of an accounting malpractice lawsuit. ❖

- 1 Please refer to the Uniform Accountancy Act at http://www.aicpa.org/download/states/UAA_Fifth_Edition_January_2008.pdf
- 2 Lipshie, Burton N, The "Continuous Representation" Toll for Claims of Professional Malpractice, *Bloomberg Law Reports*.
- 3 The "continuous treatment" doctrine was codified in 1975 under CPLR §214-a. Lipshie, Burton N, The "Continuous Representation" Toll for Claims of Professional Malpractice," *Bloomberg Law Reports*, *Borgia v. City of New York*, 12 N.Y. 2d 151 (1962).
- 4 Lipshie, Burton N, The "Continuous Representation" Toll for Claims of Professional Malpractice, *Bloomberg*

Law Reports.

- 5 *Williamson v. PricewaterhouseCoopers LLP*, 9 NY3d 1 (2007)
- 6 *Symbol Technologies, Inc. v. Deloitte & Touche, LLP*, 69 AD3d 191 (2008)
- 7 *Apple Bank for Savings v. PricewaterhouseCoopers LLP*, 2008 BL 38218.
- 8 Wilson Elser Moskowitz Edelman & Dicker, LLP, "Inattention to Engagement Letter Detail Leads to Potential Exposure for Otherwise Time-Barred Claims", *Accountants Alert*, June 2009
- 9 *Apple Bank for Savings v. PricewaterhouseCoopers LLP*, 2010 NY Slip Op 00893.

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June 2010 by Accountants Professional Liability Risk Control, CNA, 333 South Wabash Avenue, 39S, Chicago, IL 60604.

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Putting a Practice Up for Sale *By Hugh Duffy*

About a decade ago, in the heyday of firm consolidation, giants such as American Express gobbled up several firms a month – and all of them weren't large; many were small, local firms just ripe for the picking. Although the consolidators were usually mum about their payouts, the formula then, in terms of valuing a firm, was about 1.5 times annual billings plus 10 percent, according to professional journals and research at that time. More recently, the economy has made the market tougher for consolidators and valuations have dropped as a result.

If a consolidator wanted to purchase your firm today at a price slightly above market, would you be ready to sell?

The best exit plan is to make your firm more attractive to prospective buyers. Even if you have no intention of selling your firm, you should always be prepared for an offer to sell. As we all know, our health and well being is uncertain. Sometimes, life just gets in the way and you may find yourself one day wishing you were sitting on the side of a mountain or possibly changing careers altogether.

Tactics vary on how to get your firm in shape, but it's best to try and use every tool you can – and even more than that, keep a willingness to change *how* you do business and perhaps how you even think of your practice.

Ways to Boost Margins

Every accountant knows that our profession has long enjoyed a high net profit margin. Firms heavily into tax prep, bookkeeping services and lower-end accounting software consulting have also historically notched even higher margins. These conditions indicate that positioning your firm for future sale might mean evolving toward quicker, high-turnover work and away from clients who require the time-consuming attentions of highly skilled, senior-level accountants.

That latter work and the “hand holding” it involves might be the work you've found most satisfying through the years, but changing it could boost the price of grooming your firm for sale. In other words, working with clients remotely rather than in-person can produce enormous productivity gains in your practice. It can also make your practice easier to sell because it operates more like a franchise with well-defined business

processes rather than a firm dependent on the current owners expertise and relationships.

Even though they can take time and attention to grow, niche markets are proven methods to increase fees and client retention. Besides the obvious advantage of your firm being a big fish in a somewhat smaller pond, niches are a great way to net referrals for other services.

Referrals are probably the surest way to build a niche. Though it isn't necessarily fast, a great referral network can, after a while, run itself. A few years ago, one Florida accountant reported that once he completed the tax return for a local priest, he soon found himself doing the returns of almost all the religious leaders in the area.

Do a self assessment of your own skills, and survey your staff to determine what skills and interests they have that could help your firm penetrate a niche. Next, find out about the networks of clients in those niches, such as trade groups or online business networks, and attend meetings or participate in online communities. Find the influential publications and bloggers of your prospective niche clients' profession and offer your firm's expertise by contributing articles, conducting lectures and workshops, and other methods to get your name known. After all, you have knowledge to offer; accountants tend to forget how urgently people in other professions want tax, and estate planning expertise and guidance. And, perhaps most importantly, ask for referrals from satisfied niche clients.

Go Tech

A recent survey by *Inside Public Accounting* indicated that the most successful firms might expect to realize as much as \$200,000 to \$250,000 in billings per employee. Many firms seem to think that technology, especially cutting-edge personal technology, can help staff realize even higher revenues.

Start with your accounting software; look for scalability and the ability to work in a heads-down data entry mode or in a drop-down mouse-driven mode. Look for software that integrates well with mass market client-oriented accounting programs such as QuickBooks, and software that integrates with tax-prep software. Look for programs

The best exit plan is to make your firm more attractive to prospective buyers. Even if you have no intention of selling your firm, you should always be prepared for an offer to sell.

that offer direct import of bank-cleared transactions, general ledger auto-fill and auto-populate, customizable reports, reporting flexibility, direct delivery of reports in real time, the ability to automate processes when needed, and programs that are web-based, or cloud-friendly.

Even if you're not sold on SaaS or software-as-a-service, you'll want to be familiar with it in order to understand how it could potentially help boost your firm.

Personal, portable smart phones, tablets and other devices continue to have explosive potential to streamline how we work because they sharpen our ability to get things done, while addressing client concerns and needs faster, and from anywhere, in real time. These devices also give your staff a way to conduct business with fewer support staff, thereby saving your firm some overhead.

Regularly Assess Your Situation

Are you ready for a sale? Every firm is different. Geographical location, firm history and other factors also come into play. Nevertheless, the best advice is to regularly review your firm's “sale” potential. Again, even if you have no intention of selling the firm, finding ways to increase productivity, elevate profit margins and making the firm less dependent on the current ownership are always good for your firm – and keys to a solid exit strategy. ❖

Editor's Note: *Hugh Duffy is co-founder and chief marketing officer of Build Your Firm, a practice development and marketing company for small accounting firms. Hugh writes an email newsletter reaching thousands of accountants; and is frequently published in various publications, including state CPA society magazines, The CPA Technology Advisor, and Progressive Accountant. He can be reached at 888-999-9800 x151, or at hugh@buildyourfirm.com.*

Preparer Visit Program Presents Another New Challenge

By Gerard H. Schreiber Jr., CPA and Carrie W. Grinnell, CPA

The world of return preparers has produced changes over the last few years and 2010 and 2011 continue to reveal new challenges and initiatives that affect all who prepare income tax returns.

2010 marked the initial phase of return preparer registration and the IRS indicated it will continue its Preparer Visit program which started in the beginning of 2010 with IRS agents visiting the offices of selected return preparers through the spring of 2011.

With more than 10,000 letters sent out to preparers nationwide in November of 2010, preparers are reminded of their obligations to prepare accurate tax returns on behalf of their clients. It was noted that, of the preparers who were selected, the majority prepare large numbers of returns with Schedules A, C, or E. The letter also includes an enclosure that reminds preparers of their responsibilities and the consequences of filing incorrect returns.

Of those who received the letters, the IRS intends to visit approximately 2,500 of these practitioners. These visits include verification of existing return preparer requirements and discussion of the responsibilities of the return preparer.

Included in the visit is a random sampling of completed Forms 8879 (IRS E-File Signature Authorization). The new mandatory e-filing requirements necessitate preparers become familiar with the

requirements for Form 8879. All preparers are reminded to review the instructions for Form 8879 and maintain signed forms in their records for no less than three years from either the due date of the return or the date it was received by the IRS, whichever is later.

Preparers will also be submitting extensions electronically to the IRS this year and should be familiar with these requirements. The instructions for Form 8878 (IRS E-file Signature Authorization for Form 4868 or Form 2350) should be reviewed to determine the responsibilities of the taxpayer and the Electronic Return Originator (ERO). If a Form 8878 is executed, it must be maintained for no less than three years from the later of the date the return was due or received by the IRS.

FAQs for electronically submitted returns and extensions are on the IRS website at <http://www.irs.gov/efile/article/0,,id=217434,00.html>.

All preparers and those in their offices should remember and be familiar with the due diligence requirements of Code Section 6695 and Circular 230. These should be followed in the preparation of all returns. Included in Code Section 6695 are the following:

- Furnishing a copy of return to taxpayer
- Signing the return
- Furnishing preparer PTIN or tax identification number

- Maintaining a list of completed returns
- Negotiating a client refund check
- Due diligence in computation of earned income credit

More information on the Return Preparer Initiative is available on the IRS website at <http://www.irs.gov/businesses/small/article/0,,id=231925,00.html>.

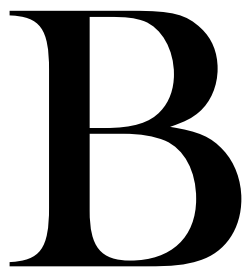
FAQs are located at <http://www.irs.gov/businesses/small/article/0,,id=231916,00.html>.

Information on the responsibilities of a return preparer is on the IRS website at <http://www.irs.gov/businesses/small/article/0,,id=231827,00.html>.

As the Return Preparer Initiative continues to be implemented, there may be more monitoring by the IRS of preparers' activities in the preparation of returns. This will require more due diligence and effort in the preparation of returns. Thus, practitioners will have to continually monitor the information on the IRS website to stay current with these developments. ❖

Editor's Note: Gerard H. Schreiber Jr., CPA is a partner with the firm Schreiber & Schreiber, CPAs in Metairie.

Carrie W. Grinnell, CPA is an associate with Southern Wealth Management in New Orleans. Jerry and Carrie are members of the LCPA's Federal Taxation Committee. Jerry is the current committee chair.



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New SOC Reports for Service Organizations

Replace SAS 70 Reports

Like all other AICPA auditing standards, SAS No. 70–Service Organizations was revisited as part of the Auditing Standards Board’s (ASB) Clarity Project which will be completed this year. In looking at the guidance on an examination of a service organization’s financial controls, the ASB decided to move it from an audit standard to an attestation standard and released Statement on Standards for Attestation Engagements No. 16, Reporting on Controls at a Service Organization.

As a result of this change and other factors, AICPA guidance has evolved into a framework of three Service Organization Control [<http://www.aicpa.org/InterestAreas/AccountingAndAuditing/Resources/SOC/Pages/SORHome.aspx>] (SOC) reports that address marketplace demands and uphold the profession’s commitment to the public interest where service organizations are concerned. New SOC report guidance will address the misuse of SAS 70 reports and illustrate alternative reporting options that will enable service organizations to demonstrate reliability and trust in their services to current and potential customers. At the same time, the appropriate standard or guidance to use, and the resulting report, will be decided upon by the CPA and the client to ensure the standards are applied and used correctly.

SSAE 16 Produces SOC 1 Report

An auditor who audits the financial statements of a user entity is known as a user auditor. In auditing a user entity’s financial statements, the user auditor needs to obtain evidence to support assertions in the user entity’s financial statements that are affected by information provided by the service organization. In some cases, the user entity is able to implement its own controls over the service performed by the service organization. In other cases, the user entity relies on the service organization to initiate, execute and record the transactions. In the latter case, it may be necessary for a user auditor to obtain information about the effectiveness of controls at the service organization that affect the quality of the information provided to user entities by obtaining a service auditor’s report.

Service auditors’ engagements that were previously performed under SAS 70 will now be performed under SSAE 16 [http://www.cpa2biz.com/AST/Main/CPA2BIZ_Primary/AuditAttest/Standards/SSAEs/PRDOVR~PC-023035/PC-023035.jsp]. A CPA may provide two types of service auditor’s reports (a type 1 report or a type 2 report). In both reports, the service auditor expresses an opinion on whether management’s description of its system is fairly presented and whether the controls included in the description are suitability designed. A type 2 report also contains an opinion on whether the controls were operating effectively. These reports have been designated as SOC 1 reports.

SOC 2, SOC 3 Examine Non-Financial Controls

The explosion of new technologies such as cloud computing and the emergence of global business opportunities has led more and more organizations to outsource certain functions related to their business that do not necessarily involve information about financial controls. The new SOC 2 report (Report on Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality or Privacy) enables service organizations to get detailed examinations of controls other than those over financial reporting: security, availability, processing integrity, confidentiality or privacy.

Importantly, the new SOC 3 report (Trust Services Report for Service Organizations) covers the same subject matter as SOC 2 but provides a short-form publicly available report that service organizations can use for marketing purposes. SAS 70 reports, as well as SOC 1 reports, were never intended for use by anyone other than the service organization’s or user entity’s auditor or the management of either company.

Addressing the Marketplace

“Some organizations were using the terms ‘SAS 70 certified’ or ‘SAS 70 compliant’ to imply incorrectly that the examination covered more than internal controls over financial reporting,” said LCPA Executive Director Grady Hazel, CPA. “In other cases, SAS 70 was being

New SOC report guidance will address the misuse of SAS 70 reports and illustrate alternative reporting options that will enable service organizations to demonstrate reliability and trust in their services to current and potential customers.

improperly used to obtain assurance regarding compliance and operations. The report also was being made available to potential customers, although it was never meant for that purpose. This new series of reports will fix those problems in the marketplace while answering the call for services that CPAs perform.”

Together, CPAs and their clients will decide which engagement and resulting SOC report is most appropriate, and which of the three will help the service organization demonstrate reliability and trust to current and potential customers. SSAE 16 is effective for service auditors’ reports for periods ending on or after June 15, 2011, with early implementation permitted. Guidance on SOC 2 and SOC 3 will be available by July. A new SOC Alert [http://www.cpa2biz.com/AST/Main/CPA2BIZ_Primary/AuditAttest/IndustryspecificGuidance/PRDOVR~PC-0224811/PC-0224811.jsp] summarizes the three reporting options to help CPAs work with clients now. More information, including a free downloadable brochure, is available from www.aicpa.org/SOC. ❖

MAP Survey Results Show Small Steps in Firm Growth; Clients Continue to Struggle

Every two years, we look forward to seeing the results of the PCPS/TSCPA National MAP Survey because it gives us a snapshot of how firms compare against one another and indicates strengths and deficiencies from one geographic region to another. The 2010 results are particularly useful because they can help practitioners make sense of an uncertain economic outlook and understand how their financial situation stacks up against their peers.

The good news is that CPA firms have been holding their own, according to the American Institute of CPAs' 2010 National Management of an Accounting Practice (MAP) Survey conducted by the AICPA's Private Companies Practice Section (PCPS) and the Texas Society of CPAs (TSCPA) and sponsored by Aon Insurance Services. The survey results provide extensive financial details on a long list of key performance indicators for participating firms and tell practitioners how their own results, practices and policies stack up against similar firms and the profession as a whole.

A Slight Uptick of Growth

One of the survey's key findings is that flat is the new up, with many firms remaining steady despite declines elsewhere in the economy. A total of 22 percent of participating firms experienced modest one percent to five percent growth, another 13 percent grew between six percent and nine percent and 12 percent saw 10 percent to 19 percent growth. At the same time, however, 30 percent reported a decrease in gross fees in FY 2009 versus FY 2008 while another 15 percent saw no change.

The Recession's Impact

The growth numbers alone don't reveal practitioners' opinions about the impact of the recession and the outlook for the future, so PCPS asked firms a series of questions on the economy. A total of 43 percent of all firms reported that their business had not been hit by the financial crisis, while another 30 percent were seeing signs of a recovery. Another 26 percent said they were "still in crisis mode." That amount was pretty consistent no matter what size the firm. On the bright side, roughly 50 percent of firms with less than \$500,000 in revenues

said they were not affected by the bad economy. Although that number dipped to a meager 12 percent among the largest firms – those with over \$10 million in revenues – 65 percent of large firms said they could see signs of a turnaround, an optimistic sign.

Clients Having a Tough Time Weathering the Economy

While firms generally seemed to be enjoying some stability, they offered a different view of their clients' situation. A full 50 percent said that clients were still in crisis mode, although another 43 percent said they were seeing signs of a recovery. Only seven percent believed the recession had not affected clients at all. "That firms have generally maintained revenues despite clients' struggles indicates that businesses understand the value of CPA services and continue to rely on their trusted business advisers even – and perhaps especially – in tough times," said James C. Metzler, AICPA vice president - small firm interests.

However, firms have been working hard to attract new clients and grow business. Marketing initiatives were the most popular method for initiating growth. Twenty-nine percent of responding firms indicated they were utilizing marketing dollars, while 24 percent have been pursuing value-added service opportunities with existing clients as their top priority for growth.

Net Remaining Per Owner, Compensation Jump

To find out more about firm profit numbers, the Survey looks at net remaining per owner, or the amount that partners can take out of the firm. Although net remaining per owner jumped to an average of \$273,140 from \$245,103 in the last survey, this increase is actually a result of changes in the mix of responding firms. Firms with revenues between \$500,000 and \$10 million reported stronger results, while all other segments fell no more than 5 percent.

Average Billing Rates Across Firms

Nearly all owners' billing rates were modestly higher this year. The overall average billing rate for owners was \$179,

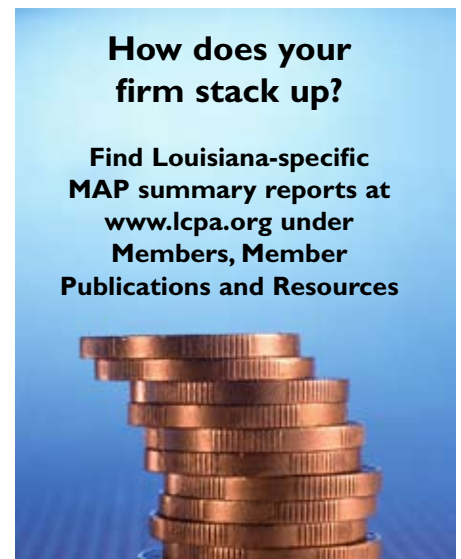
A total of 43 percent of all firms reported that their business had not been hit by the financial crisis, while another 30 percent were seeing signs of a recovery. Another 26 percent said they were "still in crisis mode."

up five percent from the 2008 survey. Rate increases at some of the largest firms raised the overall average billing rates for directors 14 percent to \$178. Managers' rates were eight percent higher at \$144 and senior associate rates moved up 5.6 percent to \$113. Associates' rates rose seven percent to \$91 and new professionals were billing 12 percent more at \$85.

AICPA PCPS member firms that participated in the Survey have access to a detailed report as well as a benchmarking tool that allows them further analysis. Visit <http://www.aicpa.org/InterestAreas/PrivateCompaniesPracticeSection/Resources/NationalMAPSurvey/Pages/About%202010%20National%20MAP%20Survey.aspx> to view the About the National MAP Survey webpage, find a publicly-accessible overview of the Survey and related details, FAQs, a list of participating states and associations and information about the Survey's sponsor and vendor as well as the Survey Results Report, requiring AICPA PCPS membership. ❖

How does your firm stack up?

Find Louisiana-specific MAP summary reports at www.lcpa.org under Members, Member Publications and Resources



How Louisiana Compares – State MAP Survey Results

The following is a quick review of selected Louisiana MAP survey results (63 LA firms responding) compared to the overall national averages (2,937 total). To view or download the complete Louisiana summary, visit www.lcpa.org, Members, Members Publications and Resources, MAP Survey.

Firm Size

	LA	National
<\$200K	16%	20%
\$200<\$500K	24%	24%
\$500-\$750K	10%	12%
\$750<\$1.5M	21%	18%
\$1.5M<\$5M	21%	20%
\$5M<\$10M	6%	4%

Which of the following categories best describes your practice unit?

	LA	National
Sole practitioner	27%	33%
Single-office firm	57%	55%
Unified multi-office firm	8%	9%
Office of sm. regional firm	8%	2%
Office of reg./nat'l firm	0%	0%
Office of a 'Big 4' Firm	0%	0%

How long has your firm been in business?

	LA	National
Less than 1 year	0%	1%
1 to 5 years	13%	11%
6 to 10 years	3%	11%
11 to 20	24%	24%
21 or more years	60%	53%

Has the current economic environment changed your firm's owner(s) retirement expectations?

	LA	National
Expect to work 5 yrs longer	11%	15%
Expect to work 1-4 yrs longer	21%	22%
No change	68%	63%

Approximately, how did firm size (measured in gross fees) change in Fiscal 2009 versus 2008?

	LA	National
Increase 1-5%	19%	22%
Increase 6-9%	21%	13%
Increase 10-19%	22%	12%
Increase 20-29%	4%	5%
Increase 30-50%	2%	3%
Increase by 50+%	2%	2%
No change	17%	15%
Decrease	10%	30%
Not Applicable	2%	2%

Financial Information – Gross

	LA	National
A/R	\$451,606	\$394,830
WIP	\$174,198	\$170,997
Firm capital (net)	\$606,076	\$535,278
Prior yr. net fees	\$2,220,060	\$2,134,495
Bad debt (FY 09)	\$20,306	\$33,987

Income

	LA	National
Gross fees earned	\$2,498,227	\$2,520,007
Net write-ups/ (write-downs)	-190,722	-348,523
Net client fees earned	\$2,307,505	\$2,171,484
Interest income	\$1,495	\$4,513
Oth income-rents/ royalties	\$10,078	\$12,701
Total income	\$2,319,079	\$2,188,698
Writedowns/% of Gross	-7.6%	-13.8%

Expenses

	LA	National
Prof'l salaries (excl. owners)	\$558,302	\$618,521
Paraprof. salaries	\$95,293	\$73,244
Other (excl. owners)	\$111,625	\$109,062
Pay to retired partners	\$23,407	\$21,501
Ret plan costs (excl. owners)	\$27,844	\$21,305
Other employee benefits (excl. owners)	\$46,628	\$59,653
Dues, library	\$18,013	\$18,303
CPE	\$17,406	\$18,235
Malpractice insurance	\$14,848	\$17,026
Rent/other occupancy costs	\$86,994	\$121,065
Interest	\$8,625	\$9,400
Computer & technology	\$50,921	\$46,542
Promotion & marketing	\$18,010	\$28,336
Payroll taxes	\$58,414	\$47,894
Phone/ web connectivity	\$65,801	\$67,884
Depreciation	\$25,059	\$31,898
Other expenses	\$162,986	\$167,722
Total expenses	\$1,351,552	\$446,327
Net remaining for owners	\$967,527	\$742,371

% of Fees by Service

	LA	National
Audit: Non-pub clients	14.1%	10.7%
Audit: Publicly held clients	0.1%	0.5%
Other Attest/Assurance	0.7%	0.9%
Niche specialties	0.7%	0.5%
Business valuation	0.6%	0.8%
Forensic/Litigation spt	1.8%	1.3%
Compilations & reviews	9.6%	10.5%
Consulting services	7.6%	5.8%
Personal financial plan	0.2%	0.5%
Investment advisory srv	0.1%	0.4%
IT consulting	0.5%	0.4%
Mergers/Acquisitions	0.1%	0.2%
Risk serv/Internal audit	0.1%	0.2%
Tax-individual	22.7%	29.1%
Tax-other than indiv	20.6%	24.4%
Write-up	16.6%	11.3%
Other	3.9%	2.8%

Number of Full Time Professional Staff

	LA	National
Partners/Owners (inc. PT)	3.19	2.72
Directors (11+ yrs exp)	0.87	0.78
Managers (6-10 yrs exp)	1.87	2.06
Sr. Assocs (4-5 yrs exp)	2.27	2.17
Associates (1-3 yrs exp)	2.62	2.01
New Professionals	0.49	0.28

Avg Billing Rates (Full-time prof. staff)

	LA	National
Partners/Owners (inc. PT)	\$153	\$179
Directors (11+ yrs exp)	\$147	\$178
Managers (6-10 yrs exp)	\$115	\$144
Sr. Assoc (4-5 yrs exp)	\$89	\$113
Associates (1-3 yrs exp)	\$73	\$91
New Professionals	\$63	\$85

New Hires

	LA	National
# New Hires meeting 150	0.889	0.385
# New Hires not meet 150	0.302	0.206
Salary, meeting 150	\$39,112	\$47,071
Salary, not meet 150	\$36,267	\$40,212

Which of the following do you have in place?

	LA	National
Succession plan	21%	25%
Formal partner in training program	9%	5%
Prac. cont. agrmnt. with another firm	5%	6%
Written firm partnership agreement	36%	39%
Partner compensation formula	29%	21%
Malpractice insurance	95%	94%

Does your firm provide/pay the following benefits for employees?

	LA	National
Cafeteria plan	32%	33%
CPE	78%	78%
CPA exam fees	35%	34%
CPA exam rev courses	19%	24%
Depnd health insurance	22%	27%
Dental insurance	21%	26%
Life insurance	41%	40%
Professional dues	70%	73%
Professional licenses	65%	71%
Retirement plan	60%	66%
Health insurance	75%	68%
None of these	13%	12%

Techonlogy – does your firm ...?

	LA	National
Have a website	57%	66%
Have a client portal	25%	28%
Have a blog	3%	4%
Use social media	8%	14%
Use mulp computer screens	63%	71%
Paperless work environ	41%	52%
Accept credit cards	22%	45%
Outsource tax returns	2%	2%
Outsource write-up wk	0%	2%
Remote access to network	63%	62%
Use time/bill software	71%	76%
Use schedule software	22%	16%

Summary of the Liaison Meeting with the Louisiana Workforce Commission

The Society's annual liaison meeting with the Louisiana Workforce Commission (LWC) was held January 14, 2011, in Baton Rouge.

The LWC was represented by Suzy Sonnier, Office of Unemployment Insurance Administration (OUIA) Director, Cindy Smith, Chief of Tax, and key staff representing a variety of LWC programs. The LCPA was represented by members of the State and Local Taxation Committee.

“Excellence, Trust, Respect, Fairness, Involvement and Open Communications”

With these words Stephen Harris began the meeting. These are the core values of the LWC. He encouraged the LCPA members present to raise awareness with our general membership regarding the priority of the LWC to ensure involvement and open communications between the LWC and the public. Mr. Harris serves as an Employer Liaison Officer, a new role created by the LWC to serve as a point of contact between the LWC and the LCPA, businesses and individuals regarding unemployment matters.

Unemployment Insurance

Ashley Ford addressed unemployment reporting compliance issues. She stressed the need to use the forms that are provided by LWC if you are filing using paper forms. The forms are printed in color and are designed for data to be extracted by means of scanning. The forms are bar coded with encrypted filer identification numbers and with the quarter ending being reported. Scanning allows LWC to more efficiently process paper filings, resulting in quicker filing and indexing of filed data.

LWC stressed a preference for the use of available online filing. This provides the fastest and the most accurate method of data input. For mag media filers, only totals on the reporting form need to be completed. When filing, the full form sheet should be submitted, not the half sheet as in the past.

Online Filing

Lettie Fletcher addressed online Wage

and Tax Report filing procedures. She explained that online filing reduces the errors that can occur with manual filing by the employer and with the subsequent processing by the LWC.

Applying for a new account number can now be completed online using the LWC website (www.laworks.net). Online services also include the viewing of benefit charges, rate notices and the ability to send payment by EFT. Unemployment tax information can be done online by the filer manually entering the necessary data. The employer can also upload single employer mag media or export data to the LWC by using an Excel spreadsheet. The LWC is currently working to allow multi filers to download multiple accounts with a single sign on. They will work with software vendors to create the spreadsheet import/export criteria. If information is filed online, the submission of paper forms is not necessary.

LWC discontinued the option to file by phone several years ago due to low participation and the associated high maintenance costs. However, if there is significant increase in interest in filing by phone, the LWC will reconsider offering that option.

Mandatory online filing is being phased-in, in accordance with Louisiana law. In 2012-2013, filers with more than 150 employees will be required to use online filing. In 2014, all filers will be required to use online filing. Ms. Fletcher asked that filers contact LWC if they have any problems, issues or confusion with online filing.

Rates and Voluntary Contribution

There were general discussions regarding unemployment tax rates and voluntary contributions. Louisiana's unemployment tax rating system is an experience-rating system used to determine an eligible employer's tax rate. The tax rate is based on the ratio between the employer's reserve balance (accumulated employer contributions less the unemployment benefits paid to former employees) and the employer's average annual payroll. The LWC uses data from a fiscal year July 1 through June 30 to determine rates. As the ratio increases, the rate decreases and vice versa. Rate increases experienced by individual employers in the current year are being driven by the downturn in the current

economy and the increased numbers of claims for unemployment.

Voluntary contributions by employers are used to lower their unemployment rate. These contributions are due by March 31 each year. Of the 95,000+ employers in Louisiana, less than 200 employers took advantage of voluntary contributions in the prior year.

Penalties

Louisiana law provides that the LWC may impose penalties for a variety of reasons. For the past two years, employers have been notified of the potential penalties, though use has been limited primarily for delinquent accounts. In the near future, penalties will be assessed when efficient processing is hampered by such things as a filer using a wrong form, missing wage detail, filing more than 200 employees on a paper form, incomplete filings and late filings.

Benefits

Gloria Allen-Butler led the discussion on unemployment benefits. Unemployed workers can now file their claims online or may file by phone. The LWC is adding and training new employees to operate call centers. If the claimant goes to a local office, the claimant will be directed to use one of the office telephones or computers to file their claims. Local offices have limited staff to assist directly with filing unemployment claims. Personnel in the local offices are primarily used to administer the LWC's re-employment initiatives.

The minimum weekly benefit amount is \$10 and the maximum weekly benefit amount is \$247. The basic benefit period for Louisiana is 26 weeks. Therefore the total amount of unemployment insurance benefits payable would be equal to 26 times the weekly benefit amount. Under the federal Emergency Unemployment Compensation (EUC) Program, the benefit period could be extended up to a total of 73 weeks. Employers are not liable for benefits paid under the EUC program.

For the employer, Ms. Allen-Butler emphasized the importance of filing the required forms and responses in a timely manner. Deadlines are set by statute. All notices of claims filed and notices to base period employers must

be answered within 10 days of the date of the notice. Form 77, Separation Notice Alleging Disqualification, must be filed within 72 hours of the employee's separation from employment. Filing a Form 77 online at the time of separation will alert LWC of any potential separation issues, and will prevent payment of benefits to which the employee may not be entitled. Throughout the process, if any information supplied by the employer is deemed inadequate to make a determination, or if the employer does not respond timely to LWC's inquiries, an employer could lose the right to appeal the Notice of Claim Determination.

Workers' Compensation

Kaye Fournet presented information on workers' compensation insurance. She stated that the law requires every employer to carry workers' compensation insurance. Businesses are encouraged to use the LWC's website to verify workers' compensation insurance certificates. Employers are responsible for paying workers' compensation claims and may be liable to pay claims by independent contractors' employees if they do not carry the required insurance.

The biggest issue for workers' compensation is the misclassification of workers. Though not a new issue, employers are increasingly classifying workers as independent contractors to avoid the unemployment tax and workers' compensation insurance premium. Some employers try to limit insurance cost by classifying employees at lower-risk jobs.

Improper classification of workers as independent contractors leads to fraud in other areas, such as, non-income tax filing, drawing unemployment benefits, receiving food stamps and Medicare/Medicaid. LWC is targeting specific industries known for misclassifying workers and pursuing fraud allegations.

LWC and other agencies, such as the Department of Revenue, Department of Children and Family Services, Department of Health and Hospitals, and state licensing boards, are developing interfaces to cross-reference applicants and to create a tool for fraud detection.

Ricky Masaracchia indicated that field auditors will become more available. In 2011, phone numbers for reaching auditors will be placed on correspondence.

Auditors will focus on independent contractor classification.

Workforce Development

Monica Fabre discussed the Incumbent Worker Training Program (IWTP) available to Louisiana employers. The program has two parts: Customized Training and Small Business Employee Training. In essence, IWTP is a partnership between LWC, business and industry, and training providers. The IWTP is designed to benefit business and industry by assisting in the skill development of existing employees and thereby increasing employee productivity and the growth of the company. These improvements are expected to result in the creation of new jobs, the retention of jobs that otherwise may have been eliminated, and an increase in wages for trained workers. Interested employers can apply online at www.laworks.net.

An explanation of the Work Opportunity Tax Credit Program was presented by Oliver Jarrell. The tax credit is aimed at specific targeted groups and designed to help move individuals into gainful employment and obtain on-the-job experience. The tax credit is based on qualified wages paid to the employee for the first year of employment. Qualified wages are capped at \$6,000. The credit is 25 percent (\$1,500) of qualified first-year wages for those employed at least 120 hours but fewer than 400 hours and 40 percent (\$2,400) for those employed 400 hours or more. Summer youth must work at least 90 days between May 1 and September 15 before the employer is eligible to claim the credit. The ETA Form 9061 (Individual Characteristics Form) and the IRS Form 8850 (Pre-Screening Notice and Certification Request for the Work Opportunity Credit) must be mailed with a postmark date no later than 28 days after the employee's start date to the LWC. The IRS form 8850 must contain original signature upon submission. The employee must qualify for one of the nine targeted groups listed by the LWC for the tax credit to be certified.

Monica Taylor presented the LWC's Apprenticeship Division. The division is responsible for the approval, support, oversight and monitoring of all registered apprenticeship programs across the state. Apprenticeships are rigorous "earn while you learn" programs, spon-

sored by employers and associations, that combine structured, full time on-the-job learning and mentoring with related theoretical classroom studies. Most programs fall between three to five years in length, and are designed to develop highly skilled workers in very specific occupations. The Apprenticeship Tax Credit is a state tax credit employers can claim for each registered apprentice that they employ, equal to \$1 per every hour of work per calendar year. The maximum allowable credit amount for each apprentice is \$1,000. There is no limit on the number of apprentices that can be claimed. If the tax credit exceeds the amount of taxes due, unused credits may be carried forward and applied to subsequent tax liabilities, but not for more than 10 years. Any employer that wants to obtain the credit must first submit the Registered Apprenticeship Tax Credit form to the Apprenticeship Division prior to filing their taxes. The form will then be verified by the state director and forwarded to the Department of Revenue for documentation of the credit to be claimed on the tax return. For more information, contact Heather Stefan, Director of Apprenticeship, at (225) 342-7819 or hstefan@lwc.la.gov.

Conclusion

Any additional information on the LWC issues and available programs can be obtained by visiting the Louisiana Workforce Commission's website, www.laworks.net, or by contacting Stephen Harris at sharris1@lwc.la.gov, (225) 342-1007.

The LCPA representatives thanked the LWC for their cooperation and attentiveness. With no further discussion, the meeting was adjourned. ♦



Editor's Note: Norman O. Loeske Jr., CPA has an established tax practice in Thibodaux. Minutes and notes were provided by Roy Austin, CPA, Senior Tax Advisor, Entergy Services, Inc. and by the LWC. Norman and Roy are members of LCPA's State and Local Taxation Committee.

Estate Planning: Portability is Not a Panacea for All

By Raymond P. Ladouceur, JD, MBA, CPA, CFF

It is estimated that 99.7 percent of all estates will not face any federal estate tax with the federal exclusion set at \$5 million per person, and the unused portion portable to the surviving spouse. However, portability is not the panacea to all estate planning problems.

Effective January 1, 2010, the basic estate tax “exclusion” is raised to \$5 million per person. This exclusion is indexed for inflation starting in 2012. The tax rate is a flat 35 percent on all transfers exceeding the exclusion amount. (Decedents dying in 2010 may elect to use the optional no estate tax, carryover basis rule. See the February issue of *Lagniappe* at lcpa.org for more details.)

Technically, the “applicable exclusion amount” is the sum of the “basic exclusion” of \$5 million, plus the “deceased spousal unused exclusion amount” (DSUEA). The DSUEA is the *lesser* of:

- (1) the basic exclusion of \$5 million (indexed for inflation after 2011), OR
- (2) the basic exclusion amount of the “last deceased spouse” dying after December 31, 2010, of the surviving spouse, over the amount of which the tentative tax on the estate of the deceased spouse is determined.

In plain English, the surviving spouse may use his or her own exclusion plus the unused exclusion of his or her “last deceased spouse” for transfers made during life or at death.

EXAMPLE 1: Assume that H1 dies in 2011, with a taxable estate of \$3 million. An election (see below) is made on H1’s estate tax return to permit W to use H1’s DSUEA. As of H1’s death, W has made no taxable gifts. Thereafter, W’s applicable exclusion amount is \$7 million (her \$5 million basic exclusion amount plus \$2 million DSUEA from H1), which she may use for lifetime gifts or for transfers at death.

EXAMPLE 2: Assume the same facts as above, except that W later marries H2. H2 also predeceases W (thus becoming the “last deceased spouse”), having a \$4 million taxable estate. An election is made on H2’s estate tax return to permit W to use H2’s DSUEA. Although lower than the DSUEA of H1, W can only use

H2’s \$1 million unused exclusion. Thereafter, W applicable exclusion amount is \$6 million (her \$5 million basic exclusion amount plus \$1 million DSUEA from H2).

EXAMPLE 3: Assume the same facts as above, except that W predeceases H2. Following H1’s death, W’s applicable exclusion amount is \$7 million. W made no taxable transfers and has a taxable estate of \$3 million. An election is made on W’s estate tax return to permit H2 to use W’s DSUEA, which is \$4 million (W’s \$7 million applicable exclusion amount less her \$3 million taxable estate). H2’s applicable exclusion amount is increased by \$4 million, i.e., the amount of W’s DSUEA.

EXAMPLE 4: Assume the same facts as in Example 3, except the Ws taxable estate is only \$1 million. H2’s applicable exclusion amount would NOT be increased by \$6 million (W’s applicable exclusion amount of \$7 million less \$1 million taxable estate). Rather, the DSUEA is the *lesser* of the basic exclusion amount OR the last deceased spouse’s applicable exclusion amount. Thus, H2’s applicable exclusion amount would be \$10 million (W’s basic exclusion amount of \$5 million, plus H2’s basic exclusion amount of \$5 million). Congress intended to prevent the applicable exclusion amount of the surviving spouse from exceeding the combined basic exclusion amounts of a husband and wife.

The Conundrum: Purely from an estate tax planning point of view, surviving spouses searching for love are best served by penniless mates with short life expectancies.

In light of the above, spouses might be tempted to execute simple “honeymoon” Wills which leave everything to each other. Because property which passes in full ownership between spouses is not subject to estate tax, in the past, such Wills would have resulted in the waste of the first spouse’s exclusion amount. Even though the exclusion is now portable between spouses, portability is not a panacea for most estate planning problems. Consider the following example.

EXAMPLE 5: W dies in 2011, leaving a gross taxable estate of \$5 million. She leaves her entire estate to H, which qualifies for the automatic marital deduction for property passing between spouses. There is no net taxable estate and her DSUEA is \$5 million. An election is made on W’s estate tax return to permit H to use W’s DSUEA. Assume that H dies in 2018 when his gross estate is \$16 million, which includes the property he inherited from W now worth \$8 million. Assume also that his applicable exclusion is \$11 million (\$5 million DSUEA, plus H’s own



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basic exclusion amount of \$6 million (the inflation adjusted amount). H, who has not remarried, will pay an estate tax of \$1,750,000 (35 percent of \$5 million (gross estate of \$16 million less applicable exclusion of \$11 million).

Now assume that W leaves her estate to her children, subject to a lifetime usufruct in favor of H. No optional QTIP (Qualified Terminable Interest Property) marital deduction is made in her estate. W's estate uses her full \$5 million exclusion and there is no DSUEA left. On H's death, the value of the property from W's estate is the same \$8 million of assets as above and H's own assets equal \$8 million. The value of the assets subject to the usufruct are not included in the Husband's estate because no QTIP election was made over them when W died. H's applicable exclusion in 2018 is only \$6 million since there was no DSUEA for him to use from W. H's net estate is, therefore, \$2 million and his estate will pay an estate tax of \$700,000 (35 percent of \$2 million), or \$1,050,000 less than it would pay if W had left her entire estate to H outright. This is because the \$3 million of appreciation in value of W's assets has inured to the benefit of the naked owners of the usufruct property, and not to H.

Taxes aside, the splitting of a spouse's estate between income and principal also ensures that her heirs will one day enjoy those assets. Although there may be good intentions to create reciprocal testaments for mutual intended beneficiaries when both spouses are alive, outside influences after the death of the first spouse can undo the best-laid plans. Unless the inheritance of the heirs of the first spouse to die is in some way vested upon his or her death, unintended persons may end up with the wealth (housekeeper, last care giver, new spouse, gold digging girlfriend or Lothario, for example).

Portability is not guaranteed. The executor of the estate of the deceased spouse must file an estate tax return on which the DSUEA is computed, and make an election that the amount may be used by the surviving spouse. The election, once made, is irrevocable. No election may be made if the estate tax return of the deceased spouse is filed after the due date (including extensions) for filing the return. The election must be made on an estate tax return of the



deceased spouse, regardless of whether the estate of the deceased spouse is otherwise required to file an estate tax return.

The usual Catch-22 associated with estate tax return preparation continues to exist. To maximize the DSUEA, the valuation of the estate's assets should be as low as possible. However, the valuation used on the estate tax return will generally set the basis for income tax purposes.

If the surviving spouse is NOT the executor of the estate, it is a good idea to direct the executor whether to make the election. In a non-taxable estate of under \$5 million, the cost of preparing an estate tax return with competent appraisals could be substantial. The executor may not want to bear this cost if the only person it benefits is the surviving spouse. Even if the surviving spouse is the executor, consider specifically authorizing the cost of preparing the estate tax return as a charge to the estate.

Effective January 1, 2011, the gift tax is reunited with the estate tax. The gift tax exemption is equal to the basic exclusion amount (\$5 million). Any excess over this amount is taxed at a flat rate of 35 percent. The generation-skipping transfer tax (GST) is reinstated retroactively to January 1, 2010. However, the tax is set at a zero percent rate for 2010, and 35 percent for 2011 and 2012. The GST exemption is tied to the basic exclusion amount of \$5 million, indexed for inflation after 2011. Note, however, that any unused GST exemption is NOT portable between spouses.

Finally, note that the new rules sunset after 2012. In 2013, the estate, gift, and GST exemptions return to the \$1 mil-

lion level, the top rate on larger estates rises to 55 percent, and the portability of the exemption is lost. While few expect that to happen, the exclusion could be allowed to revert to its 2009 level of \$3.5 million, with the loss of portability. In an election year for President, who knows? Wealthy clients should consider making lifetime transfers of high basis assets over the next two years to trusts established for children and grandchildren. A couple could transfer \$10 million to such a trust without any transfer taxation and create a sizable endowment for future generations which would grow over time. "Get while the getting is good!" ❖



Editor's Note: Ray Ladouceur is a member of the American Institute of CPAs, the Society of Louisiana CPAs, the American Bar Association, the Louisiana State Bar Association, and the Association of Attorney-CPAs. He is a

graduate of Loyola University of the South, where he earned a Juris Doctorate and a master's degree in business administration.

The Louisiana Board of Legal Specialization has certified him as a tax specialist, and an estate planning and administration specialist. He is also certified by AICPA in financial forensics.

Ray owns his own law and public accounting practice in New Orleans. He is a highly regarded discussion leader, having been named LCPA's Outstanding Discussion Leader six times. He is also the author of Estate and Gift Taxation: A Louisiana Perspective, and co-author of the 2009 edition of Planning for Marriage, Separation, and Divorce: A Louisiana Perspective.

Beginning in 2010, SSARS 19 had a significant impact on CPAs. The new standard changes the review and compilation rules in the following ways:

- ▶ You are now allowed, but not required, to disclose the reasons for lack of independence when issuing a compilation report.
- ▶ The new standard separates the compilation guidance from the review guidance. This change will make it easier to research the guidance.
- ▶ The guidance has been enhanced to provide clarification of the required performance procedures in a review engagement.
- ▶ The compilation documentation requirements have been expanded to include any findings or issues that, in the accountant's judgment, are significant.
- ▶ The review documentation requirements have been expanded to include management's responses to inquiries regarding fluctuations.
- ▶ For both compilation and review engagements, we will now be required to document our understanding with the client in writing (i.e. an engagement letter).
- ▶ The reports for compilations and reviews have been redesigned to provide a clearer explanation of management's responsibilities and the accountant's responsibilities. They also will now require a heading.

Here is a brief summary of the documentation requirements for each type of engagement:

Compilation

- ▶ The understanding with the client's management regarding the services to be performed. This understanding must be in writing.
- ▶ Any findings or issues that, in the accountant's judgment, are significant. An example of this would be a material modification to the client's data from which the financials are compiled.
- ▶ Any communications to management regarding fraud or illegal acts.

Review

- ▶ The understanding with the client's management regarding the services to be performed. This understanding must be in writing.
- ▶ The analytical procedures performed including expectations, results of com-

parison of the expectations to recorded amounts, and management's responses to the accountant's inquiries.

- ▶ Any additional procedures performed in response to significant unexpected differences arising from analytical procedures and the results of such additional procedures.
- ▶ The significant matters covered in the accountant's inquiry procedures and the responses thereto.
- ▶ Any findings or issues that, in the accountant's judgment, are significant. An example of this would be review procedures that indicate the financial statements could be materially misstated, including actions taken to address such findings, and the basis for the final conclusions reached.
- ▶ Significant unusual matters that the accountant considered during the review, including their disposition.
- ▶ Any communications to management regarding fraud or illegal acts. The representation letter from management.

For both compilation and review, the accountant is not precluded from

For both compilation and review engagements, we will now be required to document our understanding with the client in writing (i.e. an engagement letter).

supporting the report issued by other means in addition to the required documentation.

The new Standard is effective for financial statements with periods ending on or after December 15, 2010. Early application is not permitted except for the change in disclosing the reason(s) for lack of independence. ❖

Editor's Note: Reprinted with permission from The Ohio Society of CPAs. Mike Arend, CPA is OSCPA's A&A Section Expert.

Tax Planning for Real Estate Investors

In general, Section 1031 of the Internal Revenue Code allows an owner to exchange one property for another and defer payment of state and federal capital gains taxes, as long as both properties are of "like-kind".

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Centennial Celebration Secrets Revealed

Well, it was 100 years in the making, and now the Society of Louisiana CPAs is celebrating our centennial. LCPA got its humble start by a small group of certified public accountants who met at the rooms of the Associated Accountants of New Orleans on Carondelet Street in New Orleans. On March 4, 1911, the official Charter was signed and notarized, thus officially forming the Society of Louisiana Certified Public Accountants.

Now a century later, we celebrate those dedicated individuals who paved the way to our current association of 6300 members working in private industry, public practice, government and education. Our members have made LCPA the premier association of accounting professionals in Louisiana and we want you to be a part of the celebration.

Get Ready to Celebrate

LCPA appointed members to serve on a Centennial Task Force, and along with Society staff, identified activities to engage members in the celebration.

Centennial Logo

Look for LCPA's Centennial logo (pictured above right) to be used on all Society correspondence and marketing to proudly promote our 100th year.

A banner bearing the Centennial logo will travel the state and be displayed at major events to give members the opportunity to sign their name and show their support. The banner will be permanently displayed at the LCPA's office.

Centennial Video

This informative and entertaining production celebrates the Society's highlights and accomplishments that shaped our first 100 years. LCPA members share their personal experiences as to how their involvement in the association has impacted them professionally, as well as the relationships they've forged through networking with other members.

The video will be premiered at the Annual Convention Centennial Gala in June and shown at all major conference events throughout the remainder of the year.

Centennial Issue of *Lagniappe*

How did it all start? How did we get where we are today? You can read all

about it in the May/June Centennial issue of *Lagniappe*. You'll see a timeline of major events, read members' perspectives of their funny and outrageous experiences as CPAs, and help us celebrate the many multi-generations of CPAs.

New Website

LCPA's website is finally getting the update it needs. Based on feedback from the recent technology survey, we're making improvements to make your online experience better. With more user-friendly CPE search features, easier navigation, and an updated look and feel, the new website will be better reflective of our dynamic association.

Watch for the new site's Centennial Video Corner for clips of members' experiences with the LCPA.

Centennial Conference and Gala

A 100th birthday deserves a grand celebration, and that's what we've planned for you! Mark your calendar for June 16-19 at the Hotel Monteleone in New Orleans. The Centennial Conference includes 12 hours of quality CPE conveniently wrapped around many more hours of fun. Golf at Lakewood Country Club, lunch at Arnaud's Restaurant, dinner and a show at the WWII Museum, and Sunday Brunch at the Court of Two Sisters.

Not to mention the huge gala on Saturday night, June 18 at the Hotel Monteleone. The Soul Queen of New Orleans herself, Irma Thomas, will entertain guests as they enjoy cocktails and a buffet dinner. Put your dancing shoes on and get ready to second line.

Be the first to see the Centennial Video and the Society's Commemorative Poster. Members attending the gala will get a copy of the poster and have the opportunity to get it signed by the artist, Orleans' watercolorist Peter Briant.

Read more about the Conference and Gala on page 19.

And Cupcakes for All

If you can't make the Centennial Convention or Gala, fear not, LCPA will continue the celebration at all major 2011 conferences. The candles will be lit and there will be sweet treats for everyone. We want to make you feel a part of the excitement – after all it's because of you that we've made it so far.



Centennial Cruise on the Conquest

Hit the high seas November 27 through December 4 for LCPA's Centennial Celebration CPE Cruise with Ray Ladouceur. Depart New Orleans on the Carnival Conquest with stops in Key West, FL, Freeport and Nassau, Bahamas. Between the fun at the ports and drinks with little umbrellas, you'll manage to get in 12 hours of CPE on "sea days" with award-winning speaker Ray Ladouceur for the exceptional price of \$75.

Balcony rates at \$820.83 pp, oceanview rooms \$650.83 and \$640.83, to inside cabins for \$545.83 pp. Call or email Judy Shane with Majestic Travel to book your spot: 850.934.3597 or judymajestic@bellsouth.net.

Scholastic Literacy Partnership

LCPA has partnered with Scholastic Books and Gilsbar to promote children's literacy in Louisiana. LCPA will work with Scholastic books to get financial literacy-themed books directly into the hands of children in need to help them build their at-home libraries. Book distributions will take place in May, summer and fall at selected elementary schools throughout the state. LCPA chapters will take part in the delivery and presentation of books to students. This program is made possible through the Society's dedication to spreading the financial literacy message and will be our legacy for years to come.

Chapter Centennial Events

Your local chapter also is busy planning their respective event in honor of the Society's centennial. Watch for chapter emails and LCPA's website announcing the 100th celebration event in your area.

There's so much happening – don't miss out!

Private Company Financial Reporting Initiative Achieves Another Milestone

The past year's focus on the lack of relevance and increased complexity of too much of the information in private company GAAP financial statements has culminated in the Blue Ribbon Panel on Private Company Financial Reporting presenting its recommendations to the Financial Accounting Foundation (FAF), the oversight body of the Financial Accounting Standards Board. FAF's Board of Trustees was scheduled to discuss the report at a meeting on February 15. Passing of the report from the panel to FAF represents a significant step in the process to bring historic change to private company financial reporting, making it more meaningful for owners, lenders, investors and other users of private company financial statements.

The panel proposes two major shifts:

- ▶ A separate board with standard-setting authority under FAF's oversight. The new board would consist of 5-7 members with private company constituent experience and work closely with the FASB, which would continue to set accounting standards for public companies and not-for-profit organizations and report into FAF.
- ▶ Changes and modifications to existing U.S. generally accepted accounting principles, where appropriate, for private companies to reflect their financial

statement users' unique needs. All such changes would reside in the one GAAP Codification.

The blue ribbon panel was formed in early 2010 by the AICPA, the FAF and the National Association of State Boards of Accountancy to explore how to address problems with standard setting for private companies. The panel's 18 members came from a top level cross-section of financial reporting constituencies, including lenders, investors, owners, preparers and auditors. AICPA President and CEO Barry C. Melancon, CPA, also served on the panel. The panel's mission was unlike other prior committees or groups created to study the issue over the past few decades because it looked at the standard-setting process from a policy level, rather than at specific changes to individual standards.

For many years, CPAs who work for private companies in the United States have been saying that the financial information needs of private businesses are different from those of large public entities. In recent years, the situation has worsened, as the paperwork associated with preparing even the simplest financial statement has become daunting, particularly for small private businesses without the resources of a larger company. Contributing to this problem is

that too many standards do not pertain to private companies – they were developed in response to issues that occurred in the public company environment.

“The situation has reached a tipping point,” explains LCPA Executive Director Grady Hazel, CPA. “Much of the complexity in accounting and reporting relates primarily to the 15,000 or so public companies, yet any time a new standard is issued, it also applies to many of the approximately 28.5 million private companies. The result is that too much of what's included in private company financial statements is not useful to anyone who uses them. Users of private company financial statements need straightforward, understandable information that addresses what they need to know – no more, no less.”

FAF is expected to issue a proposal for public comment in the spring. CPAs are a critically important stakeholder in transforming the panel's recommendations into reality. To achieve success in changing private company financial reporting, CPAs should provide comment letters in support of the panel's recommendations and urge small business owners, lenders/bankers, investors (such as private equity and hedge fund managers) and other users to respond to FAF's proposal as well. ♦

Wellness Coping with Tax-Time Health and Stress Triggers

For many CPAs and staff members, tax season means late nights at the office, too much coffee, fast-food and sleep deprivation. It's not uncommon to hear complaints regarding overall irritation, anxiety, headaches, colds, upset stomachs and fatigue. Studies performed on accountants have even indicated a temporary rise in cholesterol levels during tax season! Experts agree that this combination of health maladies, poor eating and sleeping habits, along with the overall high stress levels, can be contributing factors to burnout. Not surprising to you, right?

Here are a few tips to help cope with tax season and ensure that you take good care of yourself while you're focused on helping your clients:

Get to work earlier than usual. Change your approach to your day by going to work early, before the office gets too

busy. This will give you an extra few minutes to organize your thoughts and develop your plan for attacking the day.

Take breaks. Get out of the office and go for a walk. Even if it's just a few blocks. The spring air will rejuvenate your senses and give you a chance to clear your mind.

Don't break the rules. If you typically have a sensible approach to wellness, don't use tax season to throw the rules out the window. Healthy eating and exercise should not take a backseat to the deadlines. So think “reduce” or “moderate” rather than eliminate altogether.

Pack your lunch & snacks each night. This will help you avoid overeating when you've waited too long to take your lunch break and find yourself starved! Junk food and fast food won't fill the void and will leave you feeling fatigued. Keep a

few staples to have on hand to help you fuel up. Consider these options that are healthy and easy to pack:

- ▶ A jar of roasted almonds or peanuts
- ▶ A jar of peanut butter
- ▶ Apples, oranges, pears
- ▶ Hard boiled eggs
- ▶ Mozzarella cheese sticks
- ▶ Low fat yogurt
- ▶ A bag of pre-washed and cleaned carrot sticks
- ▶ Whole grain granola bars ♦

Editor's Note: Information was provided by Gilsbar, Inc., exclusive administrator of the LCPA Members Insurance Program.



2011 Centennial Annual Convention Agenda

June 16-19, 2011 • Hotel Monteleone, New Orleans

Happy birthday to us!

LCPA is celebrating its 100th birthday by bringing the Annual Convention back home to Louisiana at the beautiful Hotel Monteleone. It's a once-in-a-lifetime opportunity to celebrate 100 years of service and professional excellence with your friends and family. With everything from golf to CPE to Irma Thomas, there is something for everyone. Check out the line-up below and make your reservations today for this truly special event.

Thursday, June 16, 2011

- 10:00 – 11:30 am
Registration and Lunch
- 11:30 am
Golf Tournament
(Lakewood Country Club)
- 6:30 – 8:00 pm
Opening Reception

Friday, June 17, 2011

- 8:00 – 8:30 am
Registration, Continental Breakfast
- 8:30 – 10:10 am
CPE: Tax Update
Speaker: Robert L. Perez, JD, CPA
- 10:20 am – 12:00 pm
CPE: Current Developments in
Louisiana State and Local Taxation
Speaker: Robert S. Angelico, CPA, JD
- 12:30 – 1:30 pm
Group Luncheon
Annual Meeting, Awards Presentation
(Arnaud's Restaurant)
- 5:00 pm
Optional Event: "Beyond All Boundaries" (4D movie) followed by dinner and a show (WWII Museum/The Stage Door Canteen)

Saturday, June 18, 2011

- 8:00 – 8:30 am
Continental Breakfast
- 8:30 – 10:10 am
CPE: Professional Issues Update
Speaker: Barry C. Melancon, CPA
- 10:20 am – 12:00 pm
CPE: The Rules of Engagement
Speaker: Ric Rosario, CPA, CFE
- 6:30 – 10:15 pm
Centennial Gala

Centennial Gala Entertainer Irma Thomas: The Soul Queen of New Orleans

Get out your handkerchiefs, it's time for the second line!

It is difficult to believe that Irma Thomas' first recording session was over 50 years ago. Today, this Grammy-winning artist and Louisiana Music Hall of Fame inductee remains one of America's most distinctive and classic singers, a treasure from the golden age of soul music who remains as compelling and powerful as ever.

As Don McLeese wrote in his review of her Grammy-winning 2006 album, *After the Rain*, "Most singers who have been recording as long as Thomas resort to tricks, mannerisms, and show-off displays, but she remains the anti-diva, a stylist of exquisite understatement whose every note rings true and hits home."



Experience the Hotel Monteleone

It's been said that the French Quarter begins in the lobby of the Hotel Monteleone. In fact, this venerable establishment sits majestically at the foot of Royal Street, giving guests the best point of departure for all things New Orleans. LCPA is honored to be celebrating its birthday in one of Louisiana's finest, most historic venues.

Room Rate: \$149 per night (single/double)

Cut-off Date: May 16, 2011

Reservations: Call 504.523.3341 (or toll-free at 800.217.2033) and mention the "Society of Louisiana CPAs" in order to secure this rate.

Space is limited: Make your reservation today!



Centennial Poster Unveiling

Acclaimed New Orleans' watercolorist Peter Briant will be at the Gala to reveal his original artwork for LCPA's Commemorative Centennial Poster. All members attending the Gala will receive a high-quality, ready-to-frame reproduction of the poster and have an opportunity for Peter to sign their copy.

Sunday, June 19, 2011

- 8:00 – 8:30 am
Continental Breakfast
- 8:30 – 10:10 am
CPE: Accounting and Auditing Update
Speaker: Kurt G. Oestriecher, CPA
- 10:20 am – 12:00 pm
CPE: Technology Update
Speaker: Lisa D. Traina, CPA, CITP
- 1:00 pm Optional Event:
Sunday Brunch (Court of Two Sisters)

For more information, or to register for the Centennial Annual Convention and Gala, visit www.lcpa.org or call the Member Service Center at 504.464.1040/800.288.5272. ❖

LCPA Centennial Gala • June 18, 2011

- 6:30 – 7:30 pm
Cocktails and Centennial
Poster Unveiling
Meet the Artist: Peter Briant

- 7:30 – 8:30 pm
Buffet Dinner

- 8:30 – 9:00 pm
Centennial Video Presentation

- 9:00 – 10:15 pm
Entertainment by Irma Thomas,
Soul Queen of New Orleans

(A small number of tickets are available for the Gala only.)

State Board Disciplinary Actions

Respondent

Name withheld pursuant to provisions of Consent Order
New Orleans, Louisiana
File No. 2010-09

Information

This matter was pending before the State Board of Certified Public Accountants of Louisiana ("Board") for administrative adjudication of alleged violations of the Louisiana Accountancy Act, La. Rev. Stat. §37:71 et seq., and Board Rules of Professional Conduct, by the Respondent, relative to the Respondent holding out as a CPA and engaging in practice as a CPA without possessing a valid active CPA Certificate or CPA Firm Permit, failure to timely respond to Board communications, failure to cooperate with the Board's investigation and failure to have a Peer Review once every three years as required.

Alleged Violations

La. Rev. Stat. §37:83(C): No person shall use or assume the title "certified public accountant" or abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant, unless the person holds a valid active certificate.

La. Rev. Stat. §37:79.A(5): Violation of Rules of Professional Conduct promulgated by the Board.

La. Admin. Code §46:XIX.1707.H: failure to respond to communications from the Board in the manner requested by the Board within 30 days of such mailing of such communications by certified mail, or by such other delivery methods available to the Board.

La. Admin. Code §46:XIX.1707.J: Failure to cooperate with the Board in connection with any inquiry or investigation made by the Board which includes, but is not limited to, fully responding in a timely manner to all inquiries of the Board or representatives of the Board and claiming Board correspondences from the U.S. Postal Service and other delivery services used by the Board.

Action

The Respondent in lieu of formal administrative proceedings, acknowledged, accepted and consented to entry of the following Order. Accordingly, pursuant to the authority vested in the Board by La. Rev. Stat. §§37:71 et seq., the following actions were ordered by Consent Order:

Formal administrative proceedings were dismissed against the Respondent.

The Respondent is hereby officially reprimanded by the Board for violation of the aforementioned statutes and rules promulgated by the Board.

The Respondent shall satisfy and pay, or cause to be satisfied and paid, a fine in the amount of two thousand five hundred dollars (\$2500.00), due and payable to the Board within thirty (30) days of the Respondent's notification from the Board's office that this Consent Order was signed by the Secretary of the Board, OR Respondent may submit monthly payments to the Board of no less than \$250 per month, beginning 30 days after the date this Consent Order is signed by the Secretary of the Board and each monthly payment to be received in the Board's office no later than the 5th of each month, until the total amount of \$2500 is paid in full.

The Respondent shall refrain from performing or offering to perform attest services, compilations, audits and reviews until such time that he holds a valid CPA Firm Permit.

The Respondent shall, within thirty (30) days of the date this Consent Order is signed by the Secretary of the Board, sign The Agreement for Exemption from Peer Review and Restriction of Practice Form.

The Respondent shall not be permitted to reinstate his active CPA Certificate or CPA Firm Permit until he complies with the above requirements of this Consent Order.

The Respondent shall respond to future Board correspondence in a timely manner.

A summary of the alleged violations and the Board's action in this matter, without the Respondent's name included, will be forwarded to the Society of Louisiana CPAs for publication in the newsletter *Lagniappe*.

Any violation of the terms of this Consent Order by the Respondent including failure by the Respondent to timely satisfy or fulfill the obligations imposed hereby, shall provide legal cause for the Board to invoke further disciplinary action as the Board may deem appropriate, as if such violation were enumerated among the causes provided by La. Rev. Stat. §37:79, but without the necessity of administrative adjudication or formal administrative proceedings.

This Consent Order shall be, and shall be deemed to be, a public record.

Date

Consent Order effective November 12, 2010.

Respondent

Name withheld pursuant to provisions of Consent Order
Bossier City, Louisiana
File No. 2010-37

Information

This matter was pending before the State Board of Certified Public Accountants of Louisiana ("Board") for administrative adjudication of alleged violations of the Louisiana Accountancy Act, La. Rev. Stat. §37:71 et seq., and Board Rules of Professional Conduct, by the Respondent, relative to the Respondent holding out as a CPA and engaging in practice as a CPA without possessing a valid CPA Firm Permit from June 21, 2010 until this present day, failure to respond to Board communications and failure to have a Peer Review once every three years as required.

Alleged Violations

La. Rev. Stat. §37:83(D): No firm shall provide attest services or assume or use the title "certified public accountants" or abbreviation "CPAs" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such firm is a CPA firm unless the firm holds a valid permit issued.

La. Rev. Stat. §1503.A(1): Failure to complete a Peer Review at least once each three years.

La. Rev. Stat. §37:79(A)(5): Violation of Rules of Professional Conduct promulgated by the Board.

La. Admin. Code §46:XIX.1707.H: failure to respond to communications from the Board in the manner requested by the Board within 30 days of such mailing of such communications by certified mail, or by such other delivery methods available to the Board.

La. Admin. Code §46:XIX.1707.J: Failure to cooperate with the Board in connection with any inquiry or investigation made by the Board which includes, but is not limited to, fully responding in a timely manner to all inquiries of the Board or representatives of the Board and claiming Board correspondences from the U.S. Postal Service and other delivery services used by the Board.

Action

The Respondent in lieu of formal administrative proceedings, acknowledged, accepted and consented to entry of the following Order. Accordingly, pursuant to the authority vested in the Board by La. Rev. Stat. §§37:71 et seq., the following actions were ordered by Consent Order:

Formal administrative proceedings were dismissed against the Respondent.

The Respondent is hereby officially reprimanded by the Board for violation of the aforementioned statutes and rules promulgated by the Board.

The Respondent shall satisfy and pay, or cause to be satisfied and paid, a fine in the amount of two thousand dollars (\$2000.00), due and payable to the Board within fifteen (15) days of the Respondent's notification from the Board's office that this Consent Order was signed by the Secretary of the Board.

The Respondent shall not be permitted to reinstate his active CPA Firm Permit until he complies with the above requirements of this Consent Order.

The Respondent shall, within thirty (30) days of the date this Consent Order was signed by the Secretary of the Board, provide acceptable confirmation from the Society of Louisiana CPAs to the Board's office that he is a participant in the Peer Review Program and that he is timely scheduled for a Peer Review.

The Respondent shall refrain from performing or offering to perform attest services, compilations, audits and reviews until such time that he holds a valid CPA Firm Permit.

The Respondent shall in the future timely complete all peer reviews, and shall fully and timely comply with all requirements of the Peer Review Program.

The Respondent shall not be permitted to reinstate his active CPA Certificate or CPA Firm Permit until he complies with the above requirements of this Consent Order.

A summary of the alleged violations and the Board's action in this matter, without the Respondent's name included, will be forwarded to the Society of Louisiana CPAs for publication in the newsletter *Lagniappe*.

Any violation of the terms of this Consent Order by the Respondent including failure by the Respondent to timely satisfy or fulfill the obligations imposed hereby, shall provide legal cause for the Board to invoke further disciplinary action as the Board may deem appropriate, as if such violation were enumerated among the causes provided by La. Rev. Stat. §37:79, but without the necessity of administrative adjudication or formal administrative proceedings.

This Consent Order shall be, and shall be deemed to be, a public record.

Date

Consent Order effective November 12, 2010. ❖

Classifieds

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Professional Services – Peer Review

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CPA firm is interested in acquiring a CPA practice in Lafayette, LA. If interested reply to Blind Box #6 at cdempster@lcpa.org.

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