

The **FREE STATE** Accountant

A Publication of the Maryland Society of Accounting & Tax Professionals



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Message From
the President



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2018 SOLO & SMALL FIRM PRINCIPAL'S CONFERENCE

Beach Retreat

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Tom Kuhn has been working in the document imaging industry for 26 years and has a strong background in building strong relationships in various markets. He represents a team of client focused people who will support the products and services that are offered through Doceo. Doceo has been recognized as one of the fastest growing Toshiba dealers in the United States. Tom is responsible for the Maryland marketplace and devotes his time to working with clients and team members to exceed your expectations. Tom also is involved in youth sports as a coach and official and married 25 years to his wife Jennifer. They have 2 children, Ben and Abby, a rescue pup named Shady and a cat named Jones that they inherited when they relocated to their 1850 Farmhouse in 2015.



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Mary Lundstedt received her Juris Doctor from Thomas M. Cooley Law School in 2005, graduating magna cum laude. While in law school, Mary served as an editor for the Thomas M. Cooley Journal of Practical and Clinical Law. In 2006, she earned a tax LL.M. from NYU. Prior to joining Frost & Associates, Mary practiced in corporate tax matters where she assisted clients in forming business entities and advised on tax consequences of business ventures. For several years, Mary was also a legal analyst and editor for the business entities, tax and accounting group at a leading legal publishing company.



Eli S. Noff utilizes his background as a CPA and attorney to vigorously defend clients before the IRS and state taxing authorities. Mr. Noff is the firm's lead on international tax matters, which involves complex international tax compliance issues, resolving many offshore voluntary disclosures and streamlined filing compliance procedures, as well as preparing complex Passive Foreign Investment Company (PFIC) computations. He also represents clients in a number of tax collection matters, federal and state examinations and appeals, IRS criminal investigations, and matters before the federal and state tax courts. Mr. Noff is a graduate of the University Of Maryland School Of Law where he received his Juris Doctor with honors (cum laude). Mr. Noff is an active member of the American Bar Association and the Maryland State Bar Association. He is admitted to practice law in the State of Maryland and is a licensed Maryland CPA. He is also a Rising Star with Super Lawyers.



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Ellen Silverstein, CPA lives in Montgomery County MD, starting in Rockville, moving to Olney/Brookeville, and settling in Clarksburg. She graduated from the University of Maryland in 1981 and worked for a local Bethesda, Maryland CPA firm for two years, after which followed a two year stint in the private sector. She went back into public accounting and established her own firm in 1991. Concentrating on small businesses and their owners, her business has successfully grown and provides services to a varied client base, covering a wide area of central Maryland with many out of state as well. She has been a member of MSATP since 1993, serving on various committees during this time. Ellen is currently serving as First Vice President on the MSATP Board of Directors and is the Chairperson of the Finance Committee.



Marion R. Thompson, CPA is a long time resident of Montgomery County, MD and a graduate of VA Tech (1980). She came on full time with Thompson Tax Associates, Inc. in 1983. After additional study and more accounting classes, she earned my CPA designation in 1989. She has been involved in many community and professional organizations, and was President of the Maryland Society of Accountants from 2007-2008 where she currently serves on the Board of Trustees. She is a member of the National Association of Tax Professionals. She is active in her church – Mother Seton Parish in Germantown, and has two sisters.



MSATP
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Message From the President

by Ellen Silverstein

It is my distinguished pleasure to serve as the president of the Society. I've always felt it was my duty to give back to my profession by serving on various committees and on the board. The real benefit has been getting to know so many other professionals that practice like I do (solo), learning from their experiences, and sharing them with others to help them grow as I have, both professionally and personally.

The relationships I have developed, cultivated, and nurtured here are beyond anything I could have ever imagined. It fills my heart, truly. And so here I am, humbled for sure, nervous as hell, and filled with hopes for a Society that will endure.

Now for the reality check: With much trepidation by all, and with a financial impact, the Society relocated to Columbia. Our reach may have been beyond our Carroll County borders originally, but immersing ourselves into a larger population from our once secluded enclave brings about many rewards as well as challenges.

Within the first few weeks of the move, someone in the local Columbia community stopped by the office and got information and resources. Just a few weeks ago, we had another member approach us about becoming a Board member — all from a simple move.

Now the challenges: increased time for commuting, networking at other events, working on increasing our exposure to the community, and re-branding who and what MSATP is about — all of this takes time and much effort.

As I'm sure you are aware, many of our members have left us too soon in one form or another. The general demographic of our membership is "older" (wiser too!). Many are on the verge of full retirement, partial retirement, and just wanting to shut the damn door on their practices. Attracting a younger, newly entering the profession has been less than robust. Most go to work at larger firms to gain their footing, and maybe we will hear from them in 10-15 years.

Increasing membership rolls by getting the word out at the various Maryland colleges and universities has not borne fruit as of yet. Here's where the rubber meets the road. I believe that in order for MSATP to get moving (versus moving offices), we need to harness the power of the professionals that have provided

some level of service to us already (in the initial wave of rebranding and updating the website). We need to continue moving this forward in a big and strong way. That is going to require a significant outlay of funds. We cannot be afraid. We must take the risk.

There is tremendous value in MSATP's professionalism and the way we provide our services. MSATP is not lacking in that ability. Sandy has devoted her career (and her life) to MSATP and has done an absolutely outstanding job of "working the room." What purpose does MSATP serve and to whom? How can we be of use to "members" who are no longer interested in joining societies in general, let alone ours? What else can this Society do?

We can continue to stay on top of legislation at the state (MD) and, hopefully, at the National level as well. We can continue to offer classes, but the real capstone of what we have and do is the Solo and Small Firm Practitioners conference. And this is where we must continue to grow and shine. There are many of these folks out there who really are interested in connecting with others, and a weekend getaway seems to be the perfect place and opportunity. We had record turnout at the recent conference in Hershey, PA, and there is much value in offering classes and other learning opportunities that are not CPE related courses — the attendees agreed. They are willing to pay for and attend conferences that not only provide a place to connect with other practitioners one on one, but to learn about personal development.

MSATP is at a major turning point: We must remain fluid and adapt as technology continues to advance. We must be able to quickly respond to the changing landscapes of the professions we are serving, and to greet these new endeavors and challenges with continued great customer service.

The transition, during my tenure, will be most challenging. I am optimistic and apprehensive. I have been my own boss for most of my adult career. I can make decisions and work at transitions and adaptations as needed. And as all of you know, many of these efforts requires a significant outlay of funds. I firmly believe that MSATP is not going to exist unless we respond accordingly to changing times. And the times, dear friends, they are a-changing.

We've got to learn to ride the waves, and

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as that may present issue for some, it may mean some internal changes as well. I am ok with shaking up our current landscape to bring brighter, more robust, enthusiastic, and technologically minded folks on board, as needed/warranted. And in my opinion, it is long overdue.

My vision (if I had one) would be to put MSATP on a more level playing field with MACPA. We are NOT all CPAs —this Society was designed to serve all levels of professionals, to which I wholeheartedly endorse and prescribe. We must play to the strengths of our collective and eclectic group, work at increasing Sandy's reach, continue to nurture and serve the relationships built, and take MSATP forward.

District Court Maintains \$100,000 Regulatory Cap for Willful FBAR Violations

by Eli S. Noff, Esq., Partner and Mary F. Lundstedt, Esq., Associate

On May 16, 2018, in *United States v. Colliot*¹, the District Court for the Western District of Texas held that the Internal Revenue Service (IRS) is precluded from assessing a willful Report of Foreign Bank and Financial Accounts (FBAR) penalty exceeding the \$100,000 limit provided in Federal Regulation (Reg.) §1010.820. The decision is a victory for taxpayers—forcing the government to either appeal the decision or promulgate new regulations.

In December of 2016, the IRS sued to collect willful FBAR penalties assessed against Mr. Colliot. The assessed penalties were for tax years 2007-2010. The amounts for two of these years were each well over \$100,000. The IRS argued that the penalties were authorized under Internal Revenue Code (IRC) §5321(a)(5) and Reg. §1010.820(g)(2). Mr. Colliot moved for summary judgement, arguing that the IRS violated the very regulation it was citing.

The government's discretionary authority for imposing civil monetary penalties for FBAR violations is found in IRC §5321(a)(5). Originally, this section limited the maximum amount of such penalty to the greater of the account balance (not to exceed \$100,000) or \$25,000. The corresponding regulation issued thereafter and promulgated via proper notice-and-comment rulemaking, mimicked this language—maintaining the

\$100,000 cap.² As late as 2002, after the Financial Crimes Enforcement Network (FinCEN) obtained authority to assess this penalty, the IRS reiterated that existing regulations were effective “until superseded or revised.”³

In 2004, Congress amended the statute in order to increase the penalty amount up to the greater of \$100,000 or 50% of the account balance. However, the pertinent regulation was not revised; rather, in 2010, the IRS renumbered the regulation as Reg. §1010.820, maintaining the language capping the penalty at \$100,000.⁴

This history of the regulation at issue was central to the court's decision. The court's analysis emphasized how the regulation “continued to indicate the maximum civil penalty for willful failure to file an FBAR” as capped at \$100,000. The court summed up its decision by stating:

“In sum, §1010.820 is a valid regulation, promulgated via notice-and-comment rulemaking, which caps penalties for willful FBAR violations at \$100,000.31 C.F.R. § 1010.820. Rules issued via notice-and-comment rulemaking must be repealed via notice-and-comment rulemaking. See *Perez v. Mortgage Bankers Ass'n*, 135 S. Ct. 1199, 1206 (2015) (requiring agencies to “use to the same procedures when they amend or repeal a rule as

² Reg. §103.57.

³ Treasury Order 180-01, 67 Fed. Reg. 64697 (2002).

⁴ This regulation was even further amended more recently in 2016, still preserving this cap.

they used to issue the rule in the first instance”). Section 1010.820 has not been so repealed and therefore remained good law when the FBAR penalties in question were assessed against Colliot. Consequently, the IRS acted arbitrarily and capriciously when it failed to apply the regulation to cap the penalties assessed against Colliot. 5 U.S.C. § 706(2) (requiring agency action to be “in accordance with law”); see also *Richardson v. Joslin*, 501 F.3d 415, (5th Cir. 2007) (“[A]n agency must abide by its own regulations.”) (citing *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260(1954)).”

One should note that the court did not address the issue of the appropriate relief here. The court stated that “neither party has briefed the Court on what relief might be appropriately afforded Colliot in these circumstances.” In other words, the court did not decide whether the IRS's violation of the regulation means that the entire penalty was invalid, or if the IRS may still collect the amount up to the cap.

Again, although we await the government's response to this decision (i.e. appeal the decision, or issue new regulations), this has the potential to greatly benefit taxpayers—particularly those who did not enter the Offshore Voluntary Disclosure Program. Taxpayers currently facing the statutory language allowing for 50% of the account balance—potentially exceeding \$100,000—may have the means to challenge the IRS.

If you have questions regarding FBAR rules and violations, or offshore compliance in general, please contact Eli Noff at Frost & Associates, LLC - 410-497-5947.

¹ W.D. Texas No. AU-16-CA-01281-SS.

MSATP Goes to Washington

On Wednesday, October 17, 2018, MSATP will be taking a day trip to Washington D.C. to visit the U.S. Bureau of Engraving & Printing and the Arlington National Cemetery. We will be departing the MSATP parking lot at 10 a.m., and returning by 6 p.m. Transportation will be provided by Eyre Bus Service. We are looking forward to bonding with our members as we sightsee in D.C.!

To register for the trip, please give us a call at 1-800-922-9672.

Price: \$80 per person (includes lunch) or \$65 per person (bring your own lunch)



Itinerary

- 10 a.m. - Depart MSATP Parking Lot
- 11 a.m. - Arrive at U.S. Bureau of Engraving & Printing
- 11:30 a.m. - Tour U.S. Bureau of Engraving & Printing
- 1 p.m. - Depart U.S. Bureau of Engraving & Printing
- 1:30 p.m. - Brown Bag lunch on bus
- 1:30 p.m. - Arrive Arlington National Cemetery
- 5 p.m. - Depart Arlington National Cemetery
- 6 p.m. - Arrive at MSATP parking lot

Insure It Like a Rental!

by Sami Satouri, RHU, ChHC

Have you ever heard the term “drive it like a rental?” Here at Quest Insurance, we feel it should really be “insure it like a rental!” As summer gets in to full gear and we swarm the airports to jet off to our favorite vacation destinations, we need to keep in mind a few key reminders when it comes to that rental car you have unwittingly signed your life away to when you land.

While standing at the rental car counter may not be the most exciting part of your trip, the decisions you make at that point may be the most critical when it comes to personal risk management. Many travelers are under the illusion that their personal auto policy gives them bulletproof coverage while renting a vehicle. A vast many more do not bother to read the ever finer print on their multipage rental agreement.

What most rental agreements state, and most customers do not realize, is that by signing the agreement, you agree to take on damage to the rental vehicle. Most personal auto policies will cover you in the case that you are liable to another party (through injury or damage to another vehicle), but will not cover damage to the rental vehicle itself.

Additionally, the rental agreement may make you responsible for some additional charges that are not common knowledge. If you do have a claim with a rental vehicle, you

could be charged for administrative fees related to claims management, the loss of revenue from the vehicle while it is out of commission or under repair, and the loss in value that comes with an automobile involved in an accident (think: Show me the Carfax!) All of these charges could be in addition to the damage estimate or cost of a total loss.

So what can you do? The best advice is to consult with your insurance agent about what coverages you do have on your personal auto policy before planning on renting a vehicle. Short of that strategy, your safest bet is to take the rental car company’s loss damage waiver and to make sure you abide by the rental agreement terms and conditions.

The loss damage waiver will generally cover you in the case of any damage to the rental vehicle and will make the claims process much simpler (possibly as simple as showing up at the counter and dropping off the keys!) By abiding by the terms of the rental agreement, you agree to not let an unauthorized driver behind the wheel, to not drive under the influence, to not drive recklessly, and a host of other prohibited actions. As always, it is good to remember that risk management starts with avoiding the risk!

If you or your clients have any questions or concerns regarding insurance, call Chris Corbett and the Quest Insurance team at (703) 961-8886!

A Gift From MSATP



Thank you to all MSATP members who have submitted their membership dues! Attached to the thank you letter we have sent you in the mail is a little gift from us: a webcam cover. You can place the cover on your laptop or computer monitor, and the flap on the cover will allow you to cover up the camera when you’re not using it.

You can simply open the flap to reveal your camera when you need it. We found it to be a great remedy to the DIY-sticky notes we would place over our webcams at the office, and we hope you enjoy it as much as we do.

Need some guidance on how to set up your webcam cover? Watch our Facebook tutorial here.

If you have not yet renewed your membership and would like to do so, log onto our website and head over to your profile. There will be a prompt there that will take you to the renewal page. You can also give us a call at 1-800-922-9672 and we’ll take care of the renewal for you. If you have any questions about your membership, please feel free to contact us by calling the number above, or emailing info@msatp.org.

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8 Things to Include in the Perfect Disaster Recovery Plan

by Dave Kile

It doesn't matter if you're a small-business owner or part of a larger enterprise – no one is immune to the effects temporary outages and data loss can have on day-to-day operations. So, when disasters, security breaches or other catastrophes take place, how does a business effectively recover from them? By creating a disaster recovery plan (also known as a DRP).

Extended periods of downtime and unrecoverable data loss can be fatal to companies in any industry. Here are 8 steps you should follow when crafting the perfect disaster recovery plan.

Step 1: Create Recovery Objectives

The main purpose of a disaster recovery plan is to get your business back up and running as quickly as possible during a disaster. Creating key objectives in the form of an established RTO (Recovery Time Objective) and RPO (Recovery Point Objective) will let you set criteria on how quickly your recovery efforts should take.

An RTO sets a deadline to achieve full recovery within the maximum allowable downtime. An RPO measures the possible data loss that your company can afford before suffering catastrophic business consequences.

Step 2: Identify Essential Personnel

When designing your disaster recovery plan, you'll need to identify each staff member, both internal and external, that will be part of your recovery efforts. Each team member and department involved with your recovery efforts should be documented in your DRP with their assigned responsibilities.

It's important to discuss budgets for both time and resources well in advance to eliminate the need for approvals when purchasing recovery tools or services.

Step 3: Produce Company Infrastructure Documentation

Having a step-by-step walkthrough of your current network configurations will ensure your IT recovery efforts are executed properly. There's no telling how severe the data loss or corruption will be.

But leaving a blueprint of your current network infrastructure ensures your IT team will be able to properly rebuild and recover your systems. Having a plan to follow gives your IT recovery team a solid head-start in reconstructing your infrastructure.

All documentation should be kept both offline and in the cloud. No matter what, it should be easily accessible to the people that need to see it.

Step 4: Decide on Data Recovery Solutions

When it comes to choosing the actual recovery method, there are a lot of options for your company to consider. You should decide on the direction you wish to take, whether that's on-premise, outsourced, or cloud-based solutions.

Each method of recovery will have different costs and capabilities to consider, based on the needs of your company. Storage capacity, recovery timeline, and configuration complexity will all be factors that affect your costs.

Step 5: Define Incident Criteria Checklist

Not every outage that your company experiences should be strictly classified as a disaster. However, you'll want to list the criteria to be used before deciding to execute your disaster recovery procedures.

Every company's needs are different. Deciding in advance how strict to keep your criteria will help you set realistic goals and manage your data recovery costs.

You don't want to roll out the red-carpet recovery plan for an electricity outage that lasts an hour.

Step 6: Outline Disaster Response Procedures

Once you identify an incident as a disaster, you will need to have a set of procedures to follow that will allow you to move forward with your disaster recovery efforts. This stage of your DRP is vital to ensuring you meet the RTO and RPO standards you established in the early stages of your objective planning.

Regardless of how automated or manual your recovery processes are, everything needs to be documented to ensure maximum efficiency. As you begin to identify each step of your disaster response protocols, you should make sure there are steps in place to validate the success of your efforts.

In the event of data loss and recovery, you will need to ensure that all files recovered are working and in good order.

Step 7: Perform Regular Testing

Your perfectly laid out disaster response

procedures can be totally ineffective if they haven't been thoroughly tested. Once you create a disaster recovery plan, it is imperative that you run regular testing on each procedure to confirm its effectiveness.

Step 8: Keep Your Recovery Plan Updated

As your company grows, so do the needs of your disaster recovery plan. If you have implemented a regular testing schedule of your DRP, you'll begin to identify necessary changes to keep your plan in line with your company's recovery needs. You should make changes to your recovery plan as needed and record each change in a log.

As you make staff changes over time, you must train and assign to your new disaster recovery personnel. As you continue to make regular evaluations of your business needs, your disaster recovery plan will continue to adapt over time.



Paying It Forward

by Jonathan Rivlin

Time is money, as we're taught in accounting class. Amortization schedules bear out the manifestation of this most abstract thought. Time, a human construct to deal with our limited ability to perceive our world, and money, another human construct to deal with our (in) ability to manage our limited resources.

In an industry where the tracking of time and its twin, money, what room is there, then, for taking on pro bono work?

What follows will be a recounting of one practitioner's journey through the gauntlet of the Offer in Compromise from hell, that led to an organization (the Maryland Volunteer Lawyer Service) devoted to helping professionals provide pro bono services to low income Marylanders.

First, a bit of context: About 5 years into the profession, I began taking on tax controversy work. We didn't use such a fancy term for it; it was just called answering notices. "Back then", it was a relatively straight forward affair. You'd gather the documents, craft the reply letter, attach the supporting details, and then wait. Eventually, the notice would get read by a human and (most of the time) resolved.

After responding to a handful of notices, I observed that my tax prep and tax interview skills were sharper. It was as if a whole new awareness had taken over. I was able to anticipate how clients would misinterpret (and thereby mis-answer) the basic tax compliance questions on the prepackaged tax organizer from our tax software. Knowing the types of things the IRS and State would look for, I

took extra care to ensure that documentation was available for those returns claiming certain items.

More than anything, the task of responding to notices is what helped me grow from "baby bookkeeping" to actual professional Accountant.

Flash forward about 10 years (to about 5 years ago) and we've noticed a severe uptick in the volume of notices. The cynic might say, well maybe your quality control isn't up to snuff. To which I'd say, with all the CPE hours we take, with all the extra reading we do, with the extra questions we add to the standard compliance questionnaire, to the attention and care we put into our work papers, the reality is that no firm's quality control can ever be 100% "up to snuff", so long as the human element is present.

Loosely paraphrasing a seminar speaker from several years ago (can't remember if it was Bob Jennings or someone from Gear Up), "tax law is politics" - meaning it's hard to separate politics from tax; that the promises made (or broken) by our elected officials ultimately bear expression in our reality through the tax code. Without commenting one way or another as to whose politics is correct, I'll simply offer this observation that the IRS' continued budget constraints - due to political processes - has had the following effects:

1. Processing times for returns, notices, and letters have increased

2. Wait times for call centers have increased to the point where it is sometimes not possible to get through - anyone who's been on hold for 2 hours only to have the system say that all operators are busy and to terminate the call

has earned their angels wings ahead of time.

3. When the government cuts its revenue sources (via tax cuts), yet still needs to fund its operations (only so much can be cut), the government responds by "raising enforcement" - this is what we attribute the increased volume of notices to. It seems as if the government is "casting a wide net" and that we as professionals need to ensure that these notices are correct - some are, many are not.

Into that context comes this story of a longtime client that suffered a significant medical issue. The client took money out of a Traditional IRA to cover the unplanned medical expenses. One of the things that gets taught about IRA's is that one can escape the 10% early withdraw penalties for medical purposes. This can take the form of a multiple guess (I mean choice) answer on a quiz, or as some boiler plate recap in a 16 hour CPE session.

(Note: This discussion refers to Traditional IRAs, not Roth's or SEP's.)

What gets missed is HOW such medical expenses can help an aggrieved taxpayer escape the 10% penalty.

Such expenses need to exceed the 7.5% AGI Floor, and only that excess is what can be used to reduce an early withdraw from an IRA. The early withdraw gets reported on IRS Form 5329, line 1, and the medical expenses in excess of 7.5% of AGI go on line 2, with a code of "05".

In other words, that tragic case doesn't get a lot of help from the tax code, or as I like to say, "Beware the taxman giving gifts."

As it happened, that taxpayer in question was ultimately found to be disabled by another part of the federal government, which is

proof enough for the IRS. “Fortunately”, this determination came prior to submitting the return, so we were able to make the changes. Specifically, we changed the 5329 from a Code “05” to a Code “03” which allowed for a full relief of the 10% penalty.

So...great? Like I said, “Beware the taxman giving gifts.” Full disability is full disability, the taxpayer’s life has been upended and the quality of life has been diminished. But, at least there’s no 10% penalty on the IRS distribution, that such funds, instead of going to one’s golden years were instead used to cover medical expenses.

BUT, if that’s all there was, there wouldn’t be this article. As readers of this august publication will know, we are, as individuals, calendar year taxpayers. It so happened that the expenses were incurred in one year but the IRA distribution occurred in a subsequent year, just due to the quirk in the calendar.

This freak occurrence is most definitely not taught in school, or continuing ed seminars, and it resulted in a taxpayer - who is on full disability due to a debilitating medical issue and having depleted financial resources and forced to leave their house - having a significant tax debt.

So, we prepared an Offer in Compromise (OIC) and submitted it to the IRS. And waited. On about April the 10th we got a call from the Offers Agent - completely oblivious to the looming deadline that we and her colleagues elsewhere in the IRS were dealing with. For her time stopped.

The Offers Agent at first tentatively accepted the OIC, but then rejected it on specious grounds. The agent took a tone as if I was a petulant child and she was a scolding parent. The dire facts of my client’s life crashed meaninglessly against the rocky shores of agency bureaucracy.

That is when I came across an organization called the Maryland Volunteer Lawyer Service (MVLS). The MVLS provides pro bono legal services to low income residents of Maryland. Everything from criminal matters to bankruptcy and divorce - and tax controversy.

The MVLS runs a Low Income Tax Clinic that helps Maryland residents manage their tax compliance issues.

I reached out to Janice Shih, the managing attorney for the Low Income Tax Clinic. Janice took my call, even though she was on vacation. She then reached out to my client and was able to get her into the clinic. I was then provided with 4 hours of continuing ed on tax controversy matters and process - and - paired with a 30 year veteran attorney that would act as my mentor.

Some of the concepts taught in the continuing ed seminar were old hat for me as I’d already had 10 years of experience dealing with notices. But - I was able to fill in some gaps in my knowledge. AND - most importantly, I gained some valuable networking contacts with both the IRS and the Comptroller’s office.

The seminar itself was taught by the IRS Local Taxpayer Advocate for Maryland, the Assistant Director of the Compliance Division from the Comptroller’s office, as well as two seasoned attorneys.

When our OIC was formally rejected, my mentor helped me draft the appeal - which was ultimately accepted. Even the appeal itself was difficult. Though ultimately accepted, it took an inordinate amount of time. Reaching out to the IRS Local Taxpayer Advocate for Maryland helped move the case along when it had stalled in someone’s queue.

The MVLS provided me with training, networking, and support for one of my clients - on the fly. And, once the client was brought under their malpractice coverage. I can’t say enough good things about this organization. But you say, “Nothing is for free, what’s the catch?”

The MVLS simply asks that you take on one case within 6 months of attending their free CPE seminars.

I’ve taken on such a case and here too, I’m learning new things, even 20+ years into this career. Here was a case of “stolen wages”. Part of this particular case involved completing a Form SS-8, asking the IRS to evaluate whether

my client was truly a contractor or an employee.

Typically, I’d be on “the other side of that table”. Completing an SS-8 was a useful experience that I was then able to take back to my other clients. Over the years, I’ve developed my schpiel on what business owners need to know about working with contractors and employees (Yes, I know it’s a lot of paper work, don’t blame me I didn’t write these rules...) The insights gained in completing the SS-8 gave my words an extra weight that they didn’t have before.

Further, I had a client that was not part of the MVLS encounter a tax controversy. I was able to use the contacts made through my work at the MVLS to help this client.

To conclude, the MVLS helped provide me with valuable contacts and specific issue training, mentorship, and the opportunity to gain novel experiences that I have been able to use to benefit both pro bono and paying clients. My practice as a professional has improved since volunteering with this organization.

This brings up another question, non necessarily tax related, “Does altruism really exist?” I’ve thought about this a bit. If I’m getting so much from volunteering with MVLS, can it really be altruistic? Going back to the most recent professional ethics class offered by MSATP, that yes, and also that it’s irrelevant. Taking a Utilitarianism approach, what matters is the best long term interest of all concerned; the taxpayer, the profession, yes even the government, the public at large.

As a matter of professional ethics, volunteering for MVLS is an important part of our practice. Time may very well be money, but money isn’t everything. In this case, volunteering with MVLS was time well spent.

As a post script, because I’m sure you’re wondering: I’d like to say that the particular case described above had a happy ending, but this is the real world, and though the IRS accepted the OIC, the taxpayer’s medical issues didn’t get that memo. Sometimes there are things that are more important than money and time.

Jonathan Rivlin is a CPA practicing in the Baltimore metropolitan area.

Job Openings

**To see the full list of openings, click here.*

Dental CPA Services

Job Opening: Staff Accountant

PG County, MD

For more information and to view the job description, visit our website.

Jeet Financial Services

Job Opening: Bookkeeper

Gaithersburg, MD

For more information and to view the job description, visit our website.



6 Misconceptions Around Cost Segregation

by Jerry Lotz

Over the past couple of years, I've had the privilege of being a Corporate Sponsor for the MSATP. I've enjoyed contributing to the FREESTATE Publication and I hope some of what I've shared has helped you to save your clients some serious tax dollars and better comply with the US tax laws.

With the birth of the Tangible Property Regulations in 2014 and now the Tax Cuts and Jobs Act of 2017, there are sooooo many opportunities for building owners and those who make tenant improvements to save on their Federal income taxes. The recent tax law changes have really brought to light the benefits of employing a reputable Cost Segregation firm. Yet...there are still a number of mis-conceptions out there when it comes to the application of cost segregation. In the remainder of this article, I'd like to address the six key mis-conceptions that are out there regarding cost segregation:

1. A Cost Segregation study can only be applied to building.

FALSE - Cost segregation can be applied to tenant improvements as well.

2. Cost segregation can only be applied to property valued over \$1M.

FALSE - Now, through experience and technology, there are some companies that are able to provide economically sound studies for buildings or improvements valued as low as \$250K.

3. If the owner engages a Cost Segregation study, it is not recommended that they sell the building in the first few years of ownership.

TRUE - Among other functions, a Cost Segregation study accelerates depreciation deductions on assets that are valued and re-classified into 5, 7, and 15 year class lives. This allows the owner to receive greater deductions early on in ownership. Net result is tax savings. This tax savings can be used to grow the business, pay down debt and for a host of other reasons. It's about the "time value of money" and gaining interest on the savings pulled out on the front end.

When the owner sells the property, there is a certain amount of re-capture that will need to be paid based on the tax benefits already received. Under ordinary circumstances, many companies performing Cost Segregation studies typically recommend that the owner hold the property for a minimum of three years in order to avoid excessive re-capture and gain interest on the cash flow generated. All scenarios are different so it's always a good idea to run the model analysis estimate.

4. I can only perform a Cost Segregation study on property that was just purchased.

FALSE - Whether a property is newly bought, newly built, or even if it has been owned for a number of years, a Cost Segregation study may be an excellent bway to recoup additional tax savings.

5. If I perform a study on a property that I've owned for a number of years, I need to go back and amend tax returns.

FALSE - There is no need to amend past tax returns in order to employ the tax saving benefits of a Cost Segregation study. The new calculations will create a one-time 481A

adjustment which captures the "catch-up" in depreciation expense. This translates into a windfall of tax savings. In order to make this change from straight line depreciation to a cost segregated model, a FORM 3115 needs to be completed and filed with the IRS in the same year that the 481A adjustment is applied to the return. Some companies that perform Cost Segregation studies will also complete the cumbersome IRS Form #3115 to alleviate the headache for the tax professional.

6. If I engage a Cost Segregation study, it will send up "red flags" with the IRS and trigger an audit.

FALSE - This is one of the biggest mis-conceptions that haunts the minds and hinders the actions of a number of tax professionals. The old saying "if it aint broke, don't fix it" is having a field day in the minds of many professionals. Actually, engaging a reputable, engineering-based cost segregation company to perform a study sets up a "Framework for Compliance" with the tax laws. A reputable, engineering-based company will take a forensic look and "scrub" a Depreciation Schedule. This often times results in finding entries that were previously correctly CAPITALIZED (according to older tax laws) and can now be EXPENSED (based on the TPRs) ...thus resulting in sizeable tax savings.

The regulations require tax professionals and clients to "SCRUB" Depreciation Schedules.

Under new regulation Section 1.1016-3: "Should the Government audit your client and find that you haven't gone back and scrubbed the depreciation schedules and if the Service finds assets on the schedule that should have

been expensed under the final regulations it can not only deny your ability to expense the item but “can disallow you from continuing to depreciate the item.”

The study designates the Current Depreciable Costs and the Replacement Costs of the nine building systems and the values of smaller components. These calculations that

are defined in the study become a “Framework for Decision Making” in determining whether future expenditures must be CAPITALIZED, or if they can simply be EXPENSED.

An engineering-based Cost Segregation study is the “CERTAIN” method for applying the rules of accelerating depreciation to achieve tax savings and compliance. I hope

I’ve relieved some of the angst around six misconceptions that have been floating around for years. I am happy to have our team “SCRUB” a Depreciation Schedule and prepare a FREE “Pre-Analysis” of tax savings for any client you may have. Please feel free to contact me if you have any additional questions.

5 Easy Ways to Cut College Costs in Half – or More

by Jim Seminara

According to the College Board, tuition, fees and room and board for full-time in-state students averaged \$19,548 at public four-year colleges and universities in 2015 and \$43,921 at private nonprofit four-year colleges.¹

But most students receive some form of financial aid, bringing the average net cost (sticker price minus grant aid and tax benefits) of tuition, fees and room and board down to \$14,120 at public four-year institutions, and \$26,400 at private nonprofits.²

A few well-played strategies can slash that college price tag further still.

Level Down A College

Solid students who take tough classes, get good grades and excel in athletics or extracurricular activities are likely to get more merit aid, also known as non-need-based aid, if they are willing to “level down.”

High achieving students who opt for a less prestigious undergraduate school can often earn a degree for 50 percent less with the help of lower tuition fees and more generous scholarships and grants. The most sought after college students could even get a full ride.

A 2014 study of college graduates by Gallup-Purdue University found that the type of institution they attended mattered less than what they experienced while in college – experiences that “strongly relate to great jobs and great lives.”

Choose a Zero Tuition School

If you really want to minimize your tuition fee, as in, not pay a dime, more than a dozen U.S. colleges offer free tuition. Really.

Generally, you will still incur the cost of room and board, along with books and incidentals, and you may be required to work during the academic year, as some schools

offering a degree for free want their students to have some skin in the game.

Finaid.org, a free online financial aid resource, profiles each of the colleges offering zero tuition. Finaid.org notes that some new colleges, particularly professional schools, also offer free tuition to the first year’s incoming class to generate publicity, which is worth investigating the year you apply for college. And for those with exceptional financial need, it reports, more than 70 colleges have implemented zero loans financial aid policies for low-income students.



College Study Abroad

The number of American students who study abroad before graduating from college has more than tripled in the last two decades, reaching a new high of more than 300,000 in 2013-14 academic year, according to the Institute of International Education.³ But the vast majority spends only a semester or two abroad.

To save some serious cash, you might want

to consider packing your bags for all four years as it is sometimes less expensive to attend school overseas.

Start at a Community College

You can also save a bundle by getting your first two years of college credits at a local community college and then transferring to a four-year institution.

The average published price for an in-district, two-year public community college in 2015-16: \$3,435. That is a total of \$6,870 for two full years.⁴

And since many students who attend community college live at home, they do not incur the additional expense of room and board.

To fairly compare out-of-pocket costs, however, you will need to factor in the cost of transportation to get you to and from campus, including a car, train or bus.

You do need to do your homework before you take the leap. You want to make sure that the courses that you take at the community college will transfer to the four-year program. Check with your community college and the four-year school you are planning to research your options.

Pay in-state Tuition

There is also much to be gained by getting “in-state” tuition rates, but that does not necessarily mean you have to attend a school in your own state.

Several states have reciprocity programs in place that allow eligible non-residents to pay the equivalent of in-state tuition at their colleges and universities.

Despite the rising cost of college tuition, it is still possible to earn a degree without driving yourself into debilitating debt.

Provided by Jim Seminara, courtesy of Massachusetts Mutual Life Insurance Company (MassMutual).

¹ College Board, Tuition and Fees and Room and Board over Time, 1975-76 to 2015-16, Selected Years

² College Board, Table 7, Average Net Price over Time for Full-Time Students, By Sector, 2015-16

³ Institute of International Education, Open Doors 2015

⁴ College Board, Trends in Community Colleges: Table 6, 2016



Software Review

by Alfred Giovetti

The National Institute of Standards and Technology (NIST) of the U. S. Department of Agriculture is, by definition at www.nist.gov, “a voluntary ‘framework’ which consists of standards, guidelines and best practices to manage a cybersecurity-related risk. The cybersecurity ‘frameworks’ prioritized, flexible and cost-effective approach helps to promote the protection and resilience of critical infrastructure and other sectors important to the economy and national security.” Like the NIST itself, NIST’s very definition is vague and loaded with language that is on the cutting edge of “now speak” confusion.

The NIST standard is very important to you if you are in the tax preparation business. The Internal Revenue Service (IRS) is studying how to make the NIST standard mandatory for tax preparation businesses. Under section 7216, the unauthorized use and disclosure of taxpayer information is a criminal offense that carries a one- to five-year jail term for each compromise of data.

Currently the IRS is unable to give us a uniform definition of a data breach, even though not reporting a data breach can result in hefty fines depending upon the state in which you are located. The reason the IRS cannot give the industry a definition is that, according to IRS spokespersons, every state that has defined a data “breach” differently, leading to the word being ultimately meaningless unless specifically related to a specific law.

The Society for Human Resource Management (SHRM) recently reported, in an August 9, 2017 article on their www.shrm.org website, the details of the Maryland Personal Information Protection Act, which went into effect as of January 1, 2018 (Md. Code Com. Law sec14-3501).

Maryland law requires notification of a “breach” within 45 days “after the entity

concludes that the breach has created a likelihood that the personal information has been or will be misused.” The notification must be given “by a clear and conspicuous notice delivered to the individual online while the individual is connected to the affected e-mail account from an internet protocol address or online location from which the business knows the individual customarily accesses the account.”

Section 14-3503(a) currently requires businesses that own or license the personal information of Maryland residents to “implement and maintain reasonable security procedures and practices” to protect against unauthorized access, use or destruction of the information. Most of these personal information protection laws are still very vague. Lawmakers and regulators are scrambling to understand a difficult, complex and ever-changing landscape. The only thing for sure is that if you implement any form of protection, the cyber criminals will find a way around the protection, requiring you to constantly up your game.

Gaps in the law include an accurate definition of “reasonable security procedures and practices.” Tax accountants generally shut down when faced by this new and confusing landscape of cybercrime that they have no experience or training with which to effectively cope.

Tax Accountants need to know what cybersecurity people, products, and procedures that they can trust in an unknown field. Most tax accountants do not even know what questions to ask, what products to purchase, and find themselves baffled by the simplest cyber-security precautions. Answers to questions such as where should I go for help, who can I trust, and what products should I purchase and install are still unknowns. Government agencies cannot help with most of this since they are prohibited from recommending specific products – even though they might penalize the tax accountant for not using the correct products, procedures and cyber

consultants.

Also confusing are the standards required concerning which law applies to the data breach for an accountant who prepares taxes for a state other than Maryland. For example, if the return was prepared in Maryland for a resident of Pennsylvania, which state’s data breach law applies? Or do both state’s data breach laws apply?

Even though IRS is reluctant to define a breach, IRS has formed several “working groups” composed of IRS employees, industry partners such as H&R Block, OnLine Taxes, National Society of Accountants, National Association of Tax Professionals, National Association of Tax Professionals, and the administrators of as many as 45 states. To my knowledge, the IRS has not invited state accounting societies, which should be a concern for states such as Maryland, because decisions are being made each month in these Security Summit “working groups” that could impact the practice of tax preparation in Maryland.

The Security Summit is moving towards a uniform standard of mandatory compliance with NIST. The IRS is hoping to gain buy-in from the professional and industry “working groups.” Each day the organizations working with the IRS in this effort grows. Currently about two-thirds of the tax software industry, states and other jurisdictions, and national professional societies are members of the Security Summit. As previously stated, we as tax professionals need to be concerned with this, as the implementation of NIST standards will have a major impact on our practice.

As always, I welcome your comments and discussion. Contact me by phone at 410-747-0396, email at alfred@giovetti.com, fax 410-747-6357, YouTube at [AlfredGiovetti](https://www.youtube.com/AlfredGiovetti), drop by for a cup of joe at 1615 Frederick Road, Catonsville, MD 21228, or bend my ear at a local seminar or presentation.

Are You Ready For Healthcare Savings?

by Dana Braun

Due to legislation that came out on June 19 about “Association Health Plans”, we will be doing a Facebook Live with MSATP to discuss AHP’s, as well as your interest and questions you have, in the very near future, so stay tuned!

Many of you know me and for those that don’t, I am Dana Mark Brunn, Regional Sales Director for TASC, Certified Healthcare Reform Specialist and a longtime member of MSATP. I have been with TASC and am The Account Manager/Director of the Strategic Partnership with MSATP/TASC for the past 17+ Years.

So much has changed and we are all faced with even more change as the new Trump Administration implements its plans. On June 19, “Association Health Plans, AHP’s were announced so that small employers can band together and have purchasing power like large employers do. I can promise you, MSATP and I will be on the front lines communicating to you all how many will be able to compliantly utilize these AHP’s and when it makes the most sense to do so.

However...

NOW is the time that professionals MUST team up to help our clients.

There are 4 parts: the client, the account-

tant, the TPA and the broker. All must be on the same page to help save precious healthcare dollars and be compliant while doing so.

Facts:

The ACA is STILL here! The FINES and PENALTIES are still here!

The individual mandate will go away in 2019, but compliance STILL remains a serious issue for the EBSA, DOL, IRS, HHS, EEOC etc. COMPLIANCE is on the radar more so now than ever.

Let me get to the Point:

There are Numerous ways for MSATP/TASC to assist you, the Accountant and the broker to ensure that clients are COMPLIANT while saving money on the extremely high costs of Healthcare. Studies show that the average family of 4 will pay over \$28,000 in 2018 just for Healthcare. What if we could significantly lower that? How about the New Tax Law and Jobs Act and add a HRA, FSA, HSA? How about a sole proprietor saving a guaranteed \$2000 minimum using Section 105 AgriPlan and BizPlan?

How many employers are still paying for employees Healthcare After Tax by giving employees a raise? Why not use a QSEHRA and “legally” reimburse for premiums and out of

pocket costs tax free?

Make it Easy!

Print these checklists: **Be Compliant and Compliance — It’s the Law.** You can use for this for your own business as well as clients that you work with. Let’s keep this as simple and easy as possible for you and your clients. The “Cost” of becoming compliant for businesses is LESS than the “PRICE” of non-compliance!

Risk Management:

Make sure clients sign off that you explained their role in compliance so that you are not held liable! Bob Jennings says this constantly: We make it easy.

MSATP Member Benefit:

There are discounts for TASC services as member benefits of MSATP and the tax savings should help pay for an excellent membership for MSATP.

Any Questions?

Email danab@tasconline.com or call me at 443-794-8019.

Everyone wants to save time, save money and have peace of mind.

Your Business May Be At Risk. Toshiba Can Help.

by Tom Kuhn

Protect Your Data and Your Business

Security is a growing concern for companies of all sizes. With Toshiba SecureMFP™, we employ innovative methods of protecting valuable data in order to help businesses of all sizes meet the increasing security challenges.

The Association of Certified Fraud Examiners found that companies in the United States lose more than \$800 billion a year due to fraud, and document fraud is a large part of this statistic. Now that MFPs (Multifunction Products) and laser printers are able to store data, they’ve become an integral part of business networks, and a critical point of vulnerability. They retain latent document images and contact information, leaving sensitive information and

mission-critical data at risk. These threats to security can come from anyone, anywhere.

In a 2016 study, it was found that 35% of fraud was caused by purely insiders, while only 18% was caused by purely external sources. The remaining is a combination of both sources. Reports from a variety of resources have come to these same conclusions: data theft is common, it happens regularly, and everyone is aware that it’s a serious problem. That’s why we deliver serious security solutions. In addition to protecting against security breaches and possible litigation, we assist in keeping businesses compliant with ever-increasing government regulations such as HIPAA, FERPA, Sarbanes-Oxley, and eDiscovery, to name a few.

- Over \$800 billion lost each year to fraud
- 1 in 3 security breaches come from inside
- Left unsecured, an MFP can pose one of the greatest threats to your organization
- The average total cost per company that report a data breach in 2016 was \$2.7 million

For more information about how Toshiba can keep your business secure, continue reading this article over on **our website**.

Contact Tom Kuhn at tkuhn@mydoceo.com to keep your business secure!

Solo and Small Firm Principals Conference

by Marion Thompson



Mark your calendars now – November 2-4, 2018 in Bethany Beach DE. One of the best events in our educational calendar – The Solo and Small Firm Conference. You'll have the opportunity to network with 50-60 other attendees, discuss topics relevant to your business and your clients. Most of the all-inclusive weekend is spent in small groups learning and sharing with each other. Attendees tell us this is an event not to be missed.

This year the conference will be held at the Bethany Beach Ocean Suites by Marriott. This is an all-inclusive event so rooms, meals and entertainment are all arranged and included in the price. Saturday night we're booked at Harpoon Hanna's for dinner and The Titanic Connection Murder Mystery Show!

There will be classes on client issues, technological enhancements, practice management and more. Steve Deming will join us to discuss Office 365 and other Microsoft programs. Topics for the event include:

1. Sales Tax Update/Nexus
2. Ethical Issues in your Accounting and Tax Practice
3. Security and Your Practice
4. What is the Value of your Practice
5. Employee Issues – update on Current

Laws

6. Medicare
7. Meals & Entertainment under the TCJA – what now?
8. Buying and Selling a Practice
9. Google Applications
10. College Resources and Savings Opportunities
11. Tax and Accounting Software
12. How to Price your Accounting Work – proven strategies

Most of the classes are facilitated by members so we are all learning from each other. We all have some experiences to share which can help others. This event provides opportunities for networking between classes at meals and in the hospitality suite. So if there is a particular challenge in your practice, you should plan to attend and get ideas for ways to solve it. If you are new in practice you should attend to meet and greet attendees with more experience.

If you have been in practice for a few years (or more) you should attend to see what the younger attendees have to share. They may just have their finger on the pulse of something great.

I look forward to seeing all of you in Bethany Beach!

**Sign up HERE before July 25 and save \$25 off of your registration!*

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Thank You From MSATP

We want to sincerely thank everyone who attended both the Annual Convention and Towson Estates and Trust Events for being so gracious while we worked to capture the amazing content and members that MSATP has with our video crew. We apologize for any inconvenience this may have presented during your participation, and we appreciate your understanding and graciousness in allowing us to capture this key footage and spread the message of the Society.