

# The FREE STATE Accountant

A Publication of the Maryland Society of Accounting & Tax Professionals



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MSATP Cares

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11



## TABLE OF CONTENTS

- 3 MSATP News: Nominations Committee BY JOSHUA P. ROBERSON
- 3 MSATP 2018 – 2019 Board of Directors
- 4 MSATP Cares: A Message From the Assistance Committee  
BY ROBERT BOEHNER AND PATRICIA A. MAGER
- 5 Cybersecurity and Your Tax Accounting Business BY AL GIOVETTI
- 7 What's Your Alien Tax Status and How Does it Affect Investment Property BY ELI NOFF, ESQ., MARY LUNDSTEDT, ESQ., AND BRENT CONRAD
- 8 Credit Processing: The Good, the Bad, the Ugly and the Secrets You Should Know BY DONNY LALA
- 9 Year End Progressive Tax Planning Thoughts BY JERRY LOTZ
- 10 Success By Succession BY JONATHAN RIVLIN
- 11 News From the Maryland Society of Accountants Scholarship Foundation
- 12 Millenials and Retirement: The To Do List BY JIM SEMINARA



# CONTRIBUTORS



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**Al Giovetti** is a CPA in Maryland with over 35 years of public accounting experience, Accreditation in Business Accounting (ABA, 1989), Tax Advisor (ATA, 1984), Retirement Advisor (ARA, 2007), and Principal, Giovetti and Giovetti Certified Public Accountants (1992 – current). Giovetti and Giovetti Certified Public Accountants is a full-service small CPA firm in Catonsville, Maryland. Al is currently serving as Immediate Past President on the Board of Governors for the National Society of Accountants (NSA).



**Donny Lala** is co-founder of USB Payment Processing NE Inc. He began his merchant services career in March of 1996. With 22 years of experience, Donny and his team offer solutions to provide businesses the lowest, transparent, and fair rates with the best service in the credit card processing industry. He is easy to contact at 410.828.4286 or dlala@usbne.com.



**Jerry Lotz** is a Senior Savings Advisor at CostSeg Energy Solutions. CostSeg Energy Solutions represents companies whose mission is to help commercial property owners and leaseholders save money. He serves as an agent for Cost Segregation Services Inc. (CSSI), based in Baton Rouge, LA. CSSI is an "independent" company that provides "engineering-based" IRS Approved, Cost Segregation Studies and Tangible Property Regulation Consultation. Other CSSI services include: CAP-EX Reversal Analysis, Engineering-Grade Energy Audits, 179D, 45L and LED Lighting Tax Savings Implementations. Jerry is a Baltimore native and holds a business degree from Towson University. He spent 30 years in various managerial positions in the medical sales industry. Jerry enjoys working to provide "exemplary" service to tax professionals and the clients they serve. When he is not working, he enjoys spending time with his wife, children and grandchildren.



**Mary Lundstedt, Esq.** 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.



**Patricia A. Mager, CPA** is President of WHBG, Inc., a full-service CPA firm that has been providing accounting and financial services to an array of industries for over 25 years. A graduate of Towson University, Pat became a CPA in 1992 and started her CPA practice in 1995. In 1999, she merged with WHBG and has since been instrumental in developing WHBG into a multi-faceted firm offering services to clients around the world. Pat is a past Board Member of the Queen Anne County Chamber of Commerce. In addition, she is a member of the Bosom Buddies Ball, Inc. Committee which is a major breast cancer fund raising entity on the mid-shore. Currently, Pat is serving on the Education and Professional Development Committee, Finance Committee, the Committee on Professional Regulations and is a Trustee of the Scholarship Foundation.



**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.



**Joshua P. Roberson, CPA**, worked with the Internal Revenue Service for over 15 years as a Field Examiner and Fraud Specialist. He currently has his own practice in Upper Marlboro. Josh offers representation before the federal and state governments and provides financial management for individuals, and small to medium sized businesses.



**Jonathan Rivlin, CPA**, a Baltimore native now residing outside the beltway near the old Enchanted Forest in Howard County, was born for this profession. His father, David Rivlin, CPA took him to his office one day in 1986 and from there, it was only a matter of time. He graduated from the University of Maryland, College Park in 1997 with a BS in Accounting – in 3 ½ years, becoming a CPA a few months later in 1998. Jonathan started his career at Grant Thornton, but realized that auditing large corporations wasn't his thing and left soon after. Small business is in his family's blood – four generations deep! In 2006, Jonathan opened his own practice, specializing in small businesses and developing a niche in Baltimore's startup community. In 2016, after many years of talking, father and son joined together in their new firm, The Rivlin Group. Along with his brother Joshua, their firm blends wealth management, cloud-based accounting technology, and comprehensive tax advice for their clients — with an emphasis on security of course. Clients come to The Rivlin Group when they have complex and difficult situations; we don't do easy. Jonathan has been a member of MSATP for almost his entire career. He currently serves on the Professional Regulations committee focusing on bringing issues of concern to the membership.



**Jim Seminara** is an investment advisor and financial planner with Mass Mutual Financial Group of the Mid Atlantic, a MassMutual Agency; courtesy of Massachusetts Mutual Life Insurance Company.



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## MSATP News

### Nominations Committee

by Joshua P. Roberson

#### MSATP Candidates for Elected Office

All persons holding the membership status of Principal member who would like to present themselves as a candidate for an elected office of President, First Vice President, Second Vice President, Secretary, or Treasurer for the fiscal year beginning July 1, 2019, need to follow the three steps outlined below. In doing so, we are seeking the help of our membership and anyone who has thoughts and ideas as to how we can further improve in several areas.

All persons holding the membership status of Principal or Associate member who would like to present themselves as a candidate for an elected office of Delegate for the fiscal year beginning July 1, 2019, need to also follow these steps:

1. Submit the application to the Nomination Committee prior to **Wednesday, October 31, 2018**, by fax, mail to address below, or email to [jpr@jprainc.com](mailto:jpr@jprainc.com).

Joshua P. Roberson  
9500 Arena Drive, Ste 220  
Largo, MD 20774

Phone: 301-322-8904  
Fax: 301-925-6253

2. Accept an invitation from the nomination Committee for an interview to be scheduled during the months of December 2018 and January 2019.
3. At the time of the interview, submit a biography and photograph for publication.

[Click here](#) to print the Candidates for Elected Office application.

## 2018–2019 MSATP Board of Directors

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## How To Go from Employee to Entrepreneur

In this exclusive workshop, Richard Gottfried, CPA, entrepreneur and award-winning collegiate professor, will cover the game plan for earning extra income by starting your own accounting or tax preparation side hustle (and how to transition that into a full-time business).

We'll cover the key steps to take that will help you take action, the best places to find clients, what type of pricing structure you should set as realistic expectations, and much more! You can send your questions ahead of time to [info@msatp.org](mailto:info@msatp.org). We're committed that you leave the workshop with actionable steps.

**BONUS:** Be one of the first 25 to register and receive a FREE Associate Membership for one year. In total, the course and membership are a \$150 value, yours for only \$50!

To register for the event, visit [msatp.org](http://msatp.org), or give us a call at the office at 1-800-922-9672.







# MSATP Cares: A Message From the Assistance Committee

by Robert Boehner and Patricia A. Mager

**T**he Assistance Committee was formed when the Society learned that one of our members was unable to practice due to a medical emergency. The individual's family did not know who could help run the business, so they reached out to the MSATP office. It was then realized that the Society might have members, both active and retired, who might be willing to step in and temporarily assist a practice which has incurred a crisis due to the death or illness of the principal.

This helper would not necessarily need to have an interest in buying the practice, but they would be a resource which could step in to oversee the business or provide guidance during such a crisis.

The Assistance Committee will do our best to try and help any MSATP member or their family if they have a medical emergency, death, or other circumstance that prevents them from practicing. Here are some steps that our members can take to ensure that their employee or spouse knows who to call in case such a situation arises:

1. Create a contingency plan for a medical emergency if you are a sole tax practitioner.
2. Leave instructions for your staff or your spouse, including who to call in

case of an emergency. The MSATP office phone number is 1-800-922-9672.

3. Include any contact information about who to call in case of an emergency in your estate directory, including if it is the MSATP office. This way, your staff or spouse can find assistance for helping with the tax season workflow in your absence, or find someone to purchase your practice before it becomes worthless or before it's worth less.

Additionally, you can gather the information on the disaster recovery list below to help the person who will oversee your business in case of an emergency:

1. Have a sample letter to your client explaining what will happen if you are unable to practice.
2. Set up contact person for access to your office. Make sure your "go to person" has a key to the office and the security code to turn off the alarm system if there is one.
3. Make a list of all of your software: tax, accounting, tax planning, etc.
4. Keep a list of updated passwords for the computer, phone, voicemails/ answering machine, etc.

5. Keep a flash drive with information on how to retrieve the information on your hard drives and or laptops.

6. Keep a list of where your data is being backed up and how it's being saved.

7. Keep a "due dates" list.

8. Keep a work in progress file and with procedures.

9. Maintain a list of problem clients.

10. Create a list of resources available to businesses in your area.

11. Update this information semi-annually, or annually.

Are you willing to step in and temporarily assist a practice which has incurred a crisis due to the death or illness of the principal? Please email [info@msatp.org](mailto:info@msatp.org) or give us a call at 1-800-922-9672 to get on our list of contacts.

**\*Please note: We will make every effort to provide assistance, but we may be limited and slightly delayed depending on the time of the situation and the location of the practice.**

# Cybersecurity and Your Tax Accounting Business

by Al Giovetti

**T**he Internal Revenue Service (IRS) is very concerned that small practitioners might be playing fast and loose with taxpayer data and might negligently or willfully share the information with unscrupulous characters who might use the information in identity theft situations. In this article, I will summarize some of the sources for this information and advice concerning taxpayer information.

(Just as an aside, [this link](#) lists 50 three-letter acronym interpretations for "IRS." The most popular acronym is, of course, Internal Revenue Service. Other possibilities include Infernal Refuse Service, Insulin Receptor Substrate, Indoor Residual Spraying (mosquito control), Independent Rear Suspension (such as the Triumph TR4 IRS sports car), InfraRed Spectrograph, Image Retrieval System (computing), and the list goes on. To avoid confusion, many style manuals (such as Strunk and White) recommend that an author define his acronym in a parenthetical at the beginning of the article or at the first use of the acronym in a short document. A large document should have an acronym glossary in the back of the document and define all acronyms used. Many disciplines have multiple identical three-letter acronyms (TLA) that stand for multiple three-letter phrases. In these cases, and in the interest of clarity, the acronyms should be avoided.)

There is an abundance of small business information concerning cyber security (CS). The Bible on small business cyber security is the National Institute of Standards and Technology Interagency Report (NISTIR) 7621 Revision 1 (R1). NISTIR 7621 R1 is an approximately 50-page report, including four appendices, entitled Small Business Information Security: The Fundamentals, published in November 2016. NISTIR R1 has a five-step program: Identify, Protect, Detect, Respond, and Recover.

The second important publication for tax professionals is IRS Publication (Pub) 4557, a 21-page document entitled "Safeguarding Taxpayer Data." Pub 4557 contains a four-page checklist that deals with employee management

and training, information systems, and detecting and managing system failures. IRS Pub 5293 (5-2018) Catalog number 7125E is a four-page summary. IRS Pub 1345, "Handbook for Authorized e-file Providers of Individual Income Tax Returns," contains some very confusing and highly technical information that would be best used to vet hiring IT professionals.

Most one and two-professional tax accounting preparation firms cannot afford to hire an IT professional. The price for these services might put some of us out of business when we're already paying as much as \$20,000 for tax preparation software. This is a concern since most tax returns are prepared by one- and two-professional firms.

For all these publications, you can expect constant revisions. Cyber security is a "whack-a-mole" sort of business. Once you figure out one way that the cyber criminals can catch you making a mistake, usually that hole is plugged by the industry. This is the reason for the constant revisions of anti-virus and anti-malware software. The term "whack-a-mole" refers to the popular game: every time cyber-crime appears the professionals "whack" the mole of cyber-crime on the head. The next attempt at cyber-crime is usually more sophisticated and uses a different means to trick the honest computer user into infecting their system with a virus or malware.

Even the Department of Homeland Security (DHS) has gotten into the act, with "Stop. Think. Connect. Small Business Resources," which can be found [here](#). DHS has assembled a dozen tools to help fight cyber-crime.

Let's talk numbers. Most of the one-out-of-three Americans who have had their identity stolen have had their information stolen from government agencies, such as Office of Personnel Management (OPM), and credit reporting agencies, such as Experian Credit Services. Very few names, along with pertinent information, can be found at a very small one or two-professional accounting office — it's much easier and more efficient for a criminal to hack some place where they can acquire a

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large volume of data. Considering that each name and attached information will be sold for a fraction of a dollar, a data breach in a small accounting office will only garner the data thieves a few hundred dollars. Even though the information is very good, usable information, the potential profit is small. Contrary to what IRS and DHS (Department of Homeland Security) believe, NISTI do not believe that small firm tax accountants rank high on the list of potential sources to cyber-thieves.

That being said, if they could access a group of accountants, this would be very lucrative — so this is where the thieves may use lists of tax accountants' names and information, provided when marketing your firm, to blanket hundreds of small practitioners. A recent breach of a major corporation, [Exactis](#), had two versions of their database exposed. Each version of these data bases had detailed information on around 340 million people. Two-thirds of this information was on individuals and one-third was on businesses. Exactis collects, compiles, analyzes, packages, and sells information about online transactions. As of this time, credit card information and social security numbers do not appear to have been leaked. But "stay tuned, there may be more." With the Exactis breach, information on one-half the individuals in the United States has already been leaked.

The cyber security experts at the federal agencies who are soon to sponsor legislation regulating the data security of small tax accounting firms is divided into several categories. Inventory your devices (hardware) and software that store sensitive information, use strong passwords, keep passwords secure, enable automatic updates, only install necessary software applications on the machines you use to run your business, install security software, back-up frequently and keep the backups for months, be careful with email, use wifi protected access 2 (WEP 2) with Advanced Encryption Standard, limit access to the computers and data, physically destroy old hard drives, tablets, phones, USB, and Solid State Drives, shred all documents, and install surge protection and uninterruptable power supplies (UPS), preferably with automatic voltage regulation (AVR) circuitry.

An excellent recent publication from the IRS on CS (which will regrettably never see the light of day for a variety of reasons better not discussed here) has come into my possession. Also due to my position on the IRS CS subgroup of the National Practitioner Liaison committee (NPL), I have access to some inside information for which unfortunately I am under a non-disclosure agreement (NDA). However, I can give you some idea of the depth of knowledge needed to comply with what the IRS wants the practitioner to do to secure client data.

The main topics include those several paragraphs above as well as the following (some already-stated information follows): Inventory Hardware and Software (2 topics: list devices and list software), Use strong passwords (5 topics), Keep Passwords Secure (5 topics), Enable Automatic Updates (4 topics), Applications and Software (5 topics), Install Security Software (5 topics), Back-up (7 topics), Keep E-mail secure (13 topics), Wireless Networks (8 topics), Internet Safety (10 topics), Limit Access (13 topics), Safe Disposal of Old Devices and Information (3 topics), Install Surge Protectors and Uninterruptable Power Supplies (UPS) (2 topics), Building Physical Security (4 topics), Unusual Device Activity (10 topics), Suspicious Online Activity (11 topics), and Uncommon Tax Activity (8 topics). That's 84 topics total – if my math is correct.

Each of these 84 topics can take up volumes in what you need to know, what you need to do, and further possibilities. Any of us can easily add volumes to this list. Due to the previously mentioned "whack-a-mole" nature of CS, the list is expanding every day with methods you and your staff need to protect client data.

Danger response to a suspected breach also involves 4 major and 21 minor topics (taken from NISTIR 7621) which require volumes of knowledge and expertise. The steps or main topics are: Contain (7 topics or steps), Investigate (4 topics), and Recover (6 topics), Report (4 topics with 19 separate actions to take). Staying Up to Date requires Stay Vigilant (3 topics), Stay Connected (1 main topic and 6 minor topics), Cyber Insurance (3 steps), Have a WRITTEN Plan (6 topics), Establish Standards (become a standard setting body? With two main topics), Safe Hiring practices for employees, partners, and cyber professionals (Can you afford this?), Terminate (with extreme prejudice?), Train (13 topics) and Make Security a



Habit (6 topics).

And if that is not enough, let me please review one topic above: Surge Protectors (SP) and UPS. [Wikipedia](#) has a summary of things you need to know about UPS and SP. This information is expanding and being superseded with new technologies by the minute. Remember, you must keep up and keep informed. One of the items not discussed in the IRS white paper (publication) and other information gleaned from my committee work includes redundant power supplies for each computer and each power supply must be plugged into a separate UPS with AVR and battery backup and plugged into a wall plug on a different switch in your power box. Additionally, you should also consider having an online generator that kicks in when your power goes off. AVR and battery back-up prevents power spikes, brown outs, black outs and all types

of other power maladies that could damage your equipment and make you vulnerable to hacking.

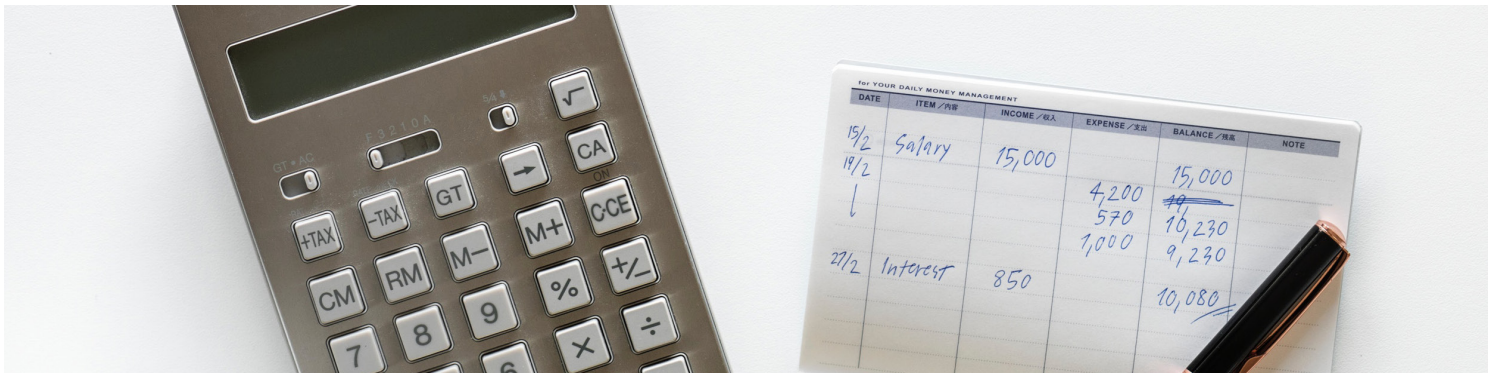
Eliminate any out of date equipment or software that is no longer being updated even if it "works fine," such as old printers (an old printer that was no longer being updated was used to obtain access to one tax accounting office).

I would like to reemphasize that one of the requirements of NISTIR 7621 R1 is to do a risk assessment analysis of your cyber security plan and to constantly be adding to your written plan procedures that will make you even more secure. Couple this with the sure knowledge that anything you do will not be enough to keep out a sufficiently talented, experienced, and creative cybercriminal. Also, be advised that some of the procedures that you adopt may be just the thing that helps the criminal gain

access to sensitive information. With all this hopeful information and an infinitely increasing body of knowledge, you may simply be safe because you are perhaps not on the radar.

Hopefully, this did not totally confuse you. There is, admittedly, a lot to know. Perhaps the American Institute of Certified Public Accountants' (AICPA) attempt to add Information Technology as another specialty of accounting was not too far off the mark. (Unfortunately, the AICPA membership did not see it that way and the proposal was voted down.)

As always, should you be in the area, stop by at my office for a cup of Joe, send me an email, call me on the phone, or visit with me at one of the many upcoming MSATP seminars. (personal information redacted in an attempt to increase cyber security measures.)



# What's Your Alien Tax Status and How Does It Affect Investment Property?

by Eli Noff, Esq., Mary Lundstedt, Esq., Brent Conrad

For tax purposes, a non-U.S. citizen is either a nonresident alien or a resident alien. All aliens are considered nonresident aliens, unless they pass the green card test or the substantial presence test. A person meeting either of these tests is considered a resident alien. Since aliens are taxed differently depending on their status, it is important to carefully consider what is involved.

For federal tax purposes, a resident is anyone who is a lawful permanent resident of the U.S. at any time during the calendar year. This is otherwise known as the green card test. A person who passes this test is issued an alien registration card, form I-551, also known as a green card, from the United States Citizenship and Immigration Services (USCIS). This status

continues unless voluntarily abandoned, administratively terminated by USCIS, or judicially terminated. If one meets the green-card test but fails the substantial presence test for that year, the individual's residency start date begins the first day in which that person is present in the U.S. as a lawful permanent resident. A lawful permanent resident is responsible for all responsibilities of a U.S. citizen regarding tax laws.

The substantial presence test determines a person's residency status based on the total number of days a person is physically present in the U.S. at any time during the year. For purposes of this test, the term United States includes:

1. All fifty states of the U.S., including the District of Columbia,

2. U.S. territorial Waters, and
3. All seabeds and subsoil adjacent to those waters and over which the U.S. maintains exclusive rights to explore and exploit.

An individual passes the substantial presence test, by being physically present for 31 days during the current year and 183 days during the 3-year period which includes the current year and the previous two years immediately before that. For purposes of counting the 183 days, a person includes:

1. All the days the individual was present during the current year,
2. One-third of the days present in the first year before the current year, and
3. One-sixth of the days present in the

second year before the current year.

Once a person passes the substantial presence test, they are considered a U.S. resident for tax purposes and may be subject to all tax law responsibilities as a U.S. citizen unless an exemption or exception applies.

There are several exemptions that one may use to deduct days from their substantial presence test day count and remove themselves from resident alien status. Days are not counted for:

1. A foreign government-related individual (A, G visa),
2. A temporarily present teacher or trainee (J, Q visa) who substantially comply with their visa requirements,
3. A temporarily present student (F, J, M, Q visa), who substantially comply with their visa requirements, or
4. A temporarily present professional athlete competing in a charitable event.

Additionally, if one is unable to leave the U.S. due to a medical condition, said person may fill out a Form 8843, Statement for Exempt Individuals and Individuals With a Medical Condition, with their tax return to exclude those days from their day count. While qualifying for one of these exemptions may preclude U.S. resident qualification and the corresponding tax responsibilities of a U.S. citizen, there are still applicable non-resident tax laws.

Without an exemption, one would need an exception to the substantial presence test, in order to demonstrate nonresident alien status. There are two exceptions available, based on showing a closer connection to a foreign country, that may apply. One of the closer connection exceptions is available to all aliens that qualify<sup>1</sup>, while the other exception is only available to qualifying students.<sup>2</sup> For both exceptions, there are numerous factors that influence whether or a person has maintained more substantial contacts with the foreign country than with the U.S.<sup>3</sup> Such factors include, but are not limited to:

1. Location of permanent home,
2. Location of family members,
3. Location of the majority of personal belongings,
4. Location of social, political, or religious organization ties,
5. Location of bank accounts,
6. Location where personal business activities are conducted,

1 I.R.C. §7701(b)(3)(B) and (C).

2 I.R.C. §7701(b)(5)(D) and (E).

3 Treas. Reg. §301.7701(b)-2.

7. Location of jurisdiction of driver's license,

8. Location of jurisdiction used for voting,

9. Country of residence listed on forms, and

10. Type of alien status forms filed.

The closer connection exception available to all aliens requires three things. First, the individual must be present in the U.S. for fewer than 183 days in the current year. Second, the individual must maintain a foreign tax home during the current year. Third, the individual must have a closer connection, as evidenced by the factors listed above, during the current year to that foreign country.

The closer connection exception available to a foreign student applies if he or she does not intend to reside in the U.S. permanently; has substantially complied with the laws and requirements governing his or her student nonimmigrant status; has not taken any steps to become a permanent resident of the U.S.; and has a closer connection, as evidenced by the factors listed above, to a foreign country.

Finally, along with their tax return, one must file either Form 8840, Closer Connection Exception Statement for Aliens, or in the case of a student exception, Form 8843, Statement for Exempt Individuals and Individuals With a Medical Condition.<sup>4</sup>

Again, determining one's alien status is significant, because resident and nonresident aliens are taxed differently. Resident aliens, generally, are taxed the same as U.S. citizens—all income earned within or outside of the U.S. must be reported. Nonresident aliens are generally taxed only on their U.S. source income. This income may either qualify as "effectively connected income" (ECI) and/or as "fixed or determinable, annual, or periodic (FDAP) income. Basically, ECI is derived in the U.S. from operation of a business also in the U.S., or it is personal service income earned in the U.S. A nonresident alien with ECI is subject to the same U.S. person graduated rates. FDAP income, withheld at the source, on the other hand, is passive income (i.e., interest, dividends) and, so long as it is not also ECI, is subject to a flat 30% tax rate, unless a tax treaty allows for a lower rate. For a full list of income tax treaties see here.

While nonresidents gain the benefit of access to the straightforward 30% treaty rate for FDAP income, nonresident

4 See Treas. Reg. §301.7701(b)-8(d)

(2) for a very limited exception for failing to file Form 8840.

aliens with ECI benefit from being able to use deductions, itemized deductions, tax credits, and exceptions—subject to limitations. For example, nonresident aliens may only claim personal exemptions for themselves on U.S. tax returns, while residents can claim exemptions for themselves and dependents. Additionally, other than personal exemptions and certain itemized deductions, nonresidents are only allowed to claim deductions to the extent they are connected to ECI, while residents have access to the same deductions as U.S. persons. Lastly, nonresident aliens cannot claim standard deductions unless exceptions apply, while resident aliens have access to the standard deduction and all itemized deductions available to U.S. persons.

Significantly, non-U.S. residents who invest in U.S. property, may elect ECI treatment rather than subject themselves to FDAP treatment.<sup>5</sup> The choice between FDAP and ECI treatment may result in substantially different effective tax rates. Consider the following examples (which do not include depreciation):

**Example 1:** NR receives \$1000 rent from tenant. NR incurs expenses related to his rental property in the amount of \$500. NR is subject to the FDAP withholding rate of 30%. Reducing the \$1,000 rent by \$500 expenses and \$300 tax—NR is left with a net profit of only \$200. The effective tax rate is 60% (\$300/\$500).

**Example 2:** NR receives \$1000 rent from tenant. NR incurs expenses related to his rental property in the amount of \$500. NR elects ECI treatment and is allowed to deduct expenses. This leaves only \$500 subject to tax. If we assume a tax rate of 37%, NR pays tax of \$185—leaving him with a profit of \$315. The effective tax rate is 37% (\$185/\$500).

A taxpayer makes the ECI election by filing a statement with their return. If the taxpayer fails to attach the statement with the original return, he or she may make the election on an amended return, so long as it is within the statute of limitations (usually 3 years).<sup>6</sup> The statement must include the following:

1. An affirmation of the choice to make the election under I.R.C. §871(d),
2. A complete list of all real property, as well as any interest in real property, that is located in the U.S.,

3. A description of the extent of the

<sup>5</sup> I.R.C. §871(d).

<sup>6</sup> I.R.C. §871(d)(3); Reg. §1.871-10(d)(1)(iii). Note that once the taxpayer makes the ECI election, the taxpayer should notify the withholding agent on Form W-8ECI.



taxpayer's direct or beneficial ownership in the real property,

4. The real property's location,

5. Descriptions of any substantial improvements made to the property, and

6. An identification of any taxable year(s) in which an I.R.C. §871(d) revocation or new election has previously occurred.<sup>7</sup>

Failure to file and pay taxes as a visa or green card holder may lead to 7 I.R.C. §1.871-10(d)(1)(ii).

several penalties handed out by the IRS or the USCIS. These penalties may harm a person's chances in being approved for adjustment of status, visa extensions or renewals, or the naturalization and citizenship process. Additionally, if deemed serious enough, deportation or removal from the U.S. may result. For these reasons, knowing your status and tax responsibilities that come along with your status is very important for all non-citizens. For a full list of visas and

the taxes that apply to them visit here. The election does not otherwise result in the property being treated as a trade or business for other purposes under the Code. For example, it does not convert the property from capital gain property to ordinary income property because of being used in a trade or business.

If you have tax questions or concerns about your alien status and the ECI election, contact Frost & Associates, LLC at 410-497-5947.

# Credit Processing: The Good, the Bad, the Ugly and the Secrets You Should Know

by Donny Lala

**W**hat is a merchant account service provider?

Merchant account service providers also known as credit card processors, supply the hardware and software needed to accept credit cards, debit cards, and other forms of electronic payments.

## Let's start with the Ugly:

Credit card processing can be a confusing concept for those who may not know much about the topic. Your clients may not understand the complicated fees associated with credit card processing.

## The Bad:

There are plenty of credit card processing companies out there and choosing the right one can be overwhelming. There is no simple approach for your clients when picking the right credit card processing company. The best solution depends on your client's business needs.

## The Good:

At USB Payment Processing, we know small businesses. We have been providing merchant services in Maryland since 1996. We partner with local community banks to provide a wide range of innovative products and credit card services to help businesses prosper.

## Product List:

Wireless TerminalS/Wi-Fi Terminals



Ideal for storefronts + swiped transactions

## Virtual Terminals:

Ideal for working from home & card-not-present transactions

## Phone/Tablet Solutions:

Ideal for merchants with robust products or services

## POS Style Solutions:

POS processing tailor-made to your specifications.

## The Secret:

Most merchants don't know that their rates and fees change every year. On average we help merchants save over 980 dollars annually. By referring

your clients to USB Payment Processing, your clients can save and effectively streamline business operations.

## How to help your clients save:

Request a free payment processing quote at [usbne.com/msatp](http://usbne.com/msatp) to help your clients identify revenue savings that they can invest back into their business. There is no obligation to sign up, just simply provide a recent processing statement with all names removed and we will respond with a side by side blind cost analysis. USB Payment Processing works with all industries from retail to nonprofit.

For any questions contact Donny Lala at 410-828-4286 or learn more at [usbne.com/msatp](http://usbne.com/msatp).



# Year End Progressive Tax Planning Thoughts

by Jerry Lotz

**N**ow that the September 15 filing is past and October 15 deadline is in sight, tax professionals across the country are coming down the stretch and getting ready to hopefully say “goodbye” to 2017 tax filings!

Many of you will use the coming months to ponder your clients’ situations, attend CPE events and try to get a grasp on the nuances of the TCJA in preparation for 2018 return filings. This will be uncharted water as there are many changes in the new law. It’s likely you’ll spend a little more time with each client this year than in years past. For clients who own, and in some cases lease residential rental, multi-family and commercial properties, put your thinking caps on and ask yourselves:

- Did any of my clients buy a building this year?
- Did any of my clients spend significant dollars demolishing and/or renovating their buildings (this includes leaseholder improvements too)?
- Did I define building systems and units of property (UOP) for my clients?
- Did I go back through

depreciation schedules to mine/scrub for opportunities to REVERSE previously capitalized entries that can NOW be expensed as result of the 2013-14 TPRs?

If any of these scenarios spark a pause in your thinking, there may be an opportunity for you to help your clients save additional monies! Whether a building is newly occupied, newly bought, newly built, or even if it has been owned for a number of years, there is likely an opportunity for significant tax savings!

The combination of the Tangible Property Regulations and the New Tax Law create the perfect storm for tax savings for clients who own, and in many cases, lease residential rental, multi-family and commercial property. It is even more important for tax professionals to act NOW to plan strategies for maximizing 2018 tax savings for those clients.

The IRS is very serious about these NEW Regulations. In the event they audit your clients’ returns, they will be using the regulations as benchmark for measurement. If they audit and find that the wrong class lives were assigned, the IRS can deny future depreciation. So...it is in the

best interest of tax professionals and their clients to gain a better understanding of the rules, embrace the changes and begin with the TPRs as the decision making, governing framework during your tax planning sessions with your clients.

The NEW Regulations were really built upon a Cost Segregation Model; thus, Cost Segregation is a “compliance solution” to the repair regulations. The IRS refers to Cost Segregation as a “Certain Method” of analyzing and identifying the commercial building components that are eligible for accelerated depreciation. This provides significant tax savings for the owner.

Many companies that provide Cost Segregation studies will prepare a FREE ESTIMATE of potential tax savings for a property/improvement. Some companies have lower property value limits of \$1M, but others will find positive ROI for properties valued as low as \$250K. This estimate will be a great tool for deciding whether to engage a study or not for your client. Be sure you are working with a reputable Cost Segregation Company that can provide a “turnkey solution” for compliance and tax savings for you and your clients.



# Success By Succession

by Jonathan Rivlin

**W**hat's wrong with these kids today? Who can understand anything they say? First, stop calling them "kids." Second, there's nothing wrong with them. Third, remember Steven Covey's Fifth Highly Effective Habit: "Seek first to understand, then, to be understood."

The "them" in question is the group of young people collectively known as "Millennials." Millennials, according to Wikipedia, is the cohort of people born between 1982 and the early 2000s. Among this generation are the accountants that will follow us — they are the future of our profession.

This article will address the generation of Millennials from 3 points of view: clients, employees, and successors to our firms.

Much ink and many pixels have been devoted to this group. A group that has been sought after by marketers, saddled with student loan debt to the point where they have delayed starting their adult lives, have never known a time where pensions were de rigueur, and have been maligned for having a poor work ethic.

As practitioners of tax and accounting, a discipline that is divorced from the laws of nature, beholden to its own internal illogical logic, I want to challenge you to engage with millennials as you would any other professional matter — with objectivity, competence, and a commitment to providing good advice.

In any given population, there will always be some bad actors. I don't mean to suggest that the stereotype of the lazy millennial doesn't exist anywhere in reality. Of course there are some people out there that lack motivation. However, it is an error of judgement — a cognitive blindspot — to ascribe the fallibility of some young people to the group as a whole. You know better!

I've heard many unkind words hurled at this group of people, as if they were a monolith. It is my opinion that such thinking is unprofessional and lazy — the very trait we are deriding in others.

In my experience, members of the group we call Millennials do in fact have a strong work ethic. And more than any other generation — certainly my own jaded fellow Gen X'ers — these people care. They don't just want to work — they want to have meaning in their lives and make a difference in their communities.

It's not laziness to not want to work 100 hour weeks while absorbing an unending amount of stress and professional liability.

It's actually intelligent. The real question is why did we think it was ever OK to work such horrendous hours, cap our fees or give discounts, and eat stress like it was going out of style?

We, as veteran practitioners, need millennials in our profession, whether we like it or not. We need to learn how to work with this group of intelligent, concerned, and thoughtful people. They need us to share our institutional wisdom and show them the ropes. We need them to help us recover that enthusiasm and energy that lies dormant within us — and to help us adopt the ever growing array of cloud accounting apps.

Millennials will buy out your practice. Millennials will take over their parents' businesses (our long time clients).

Among our many professional responsibilities is succession — at the firm level and at the professional level. We must prepare these people so that they can be a credit to our community and a help to the public.

"OK," you say, "You're a bit heavy handed with this article, but I gave a millennial a shot and he/she didn't work hard enough," or "they didn't pick up on the tasks," or "they didn't want to work overtime for no extra compensation."

I'll simply redirect this thought back to the idea that no normal person should be expected to work obscene hours without proper compensation — especially when many tasks can be accomplished more efficiently with technology. This is poor leadership; no wonder they don't want to put down roots in small firms like ours.

If you're having a hard time understanding why millennials won't join your firm, or the profession at large, walk in their shoes for a moment. Millennials, generally speaking, care about making their world a better place. And shame on all the older generations (mine included) for losing sight of this. They also have an expectation that current technology will be employed in the business process. This group has little patience for inefficiency, and again, this should reflect on us; why do we tolerate inefficiency?

To accommodate this worthy trait of concern for others, we don't just assign tasks in our practice. We explain how the task affects the client personally, that the work they do will allow this client to hire more staff, pay their rent, etc. We explain that some of the more menial tasks that need to be done at the early phases of one's career are important for building a

foundation of skills they'll draw on when it's their turn to run their own practice, or yours if they buy you out.

Over the past 12 months at our firm, we've picked up several new clients who were tired of being treated like petulant children by their parents' accountants. Think about this: People don't just leave an accountant, particularly one with decades of experience with their business, for no reason.

Millennials as clients have needs just as older clients do. Millennials have expectations that the technology they use in every other facet of their lives will be employed for their tax and accounting needs as well. They expect that their questions will be responded to and they will be shown the same level of attention their parents received.

We are leaders, and leaders lead by example. When a member of this young generation, be it a client, an employee, or a potential successor comes to you, they deserve to be treated with the same professional comportment we'd give to our established clients and staff.

If you're not able to understand or attract these people to your practice, I'd turn it around on you. Have you listened to them, or do you shout at them like Mr. Wilson shouting at Dennis to keep off the lawn? (Admittedly that's a cultural reference that Millennials might miss.) Didn't your parents say similar things about your generation? I remember catching a lot of grief from my elders when Nirvana and Pearl Jam ruled the airwaves, as if I was responsible for that garbage music (News flash: Not all Gen X'ers like Grunge, just as not all Millennials are lazy). Surely, similar criticism was hurled when it was The Who slamming yet another guitar into a perfectly good amplifier.

As it happens with such seemingly intractable challenges of the modern world, the solution is actually antiquated. Instead of thinking of a traditional hierarchy in a firm, consider the apprentice model. Bring on a young person and teach them the practice of accounting as if it were a craft and an art, which it is, because there is no science to it.

Changing your perspective on the employee relationship to an apprenticeship and opening your minds to the way the upcoming practitioners think and what they care about are the steps we need to take as we work to pass that torch, both for our practices and for the profession.



# News From the Maryland Society of Accountants Scholarship Foundation

From 1987 - 2018, the Foundation has proudly awarded over 1,127 scholarships in excess of \$921,000. For the 2018-2019 academic year, the Foundation received 12 applications for scholarships, and all applicants received a scholarship.

The Maryland Society of Accountants Scholarship Foundation, Inc. is pleased to announce the scholarship recipients for the 2018-2019 academic year:

Garhett Adams

Ryan Cantrell

KeiAsia Coates

Tiffany Liu

Jennifer Martinez

Christopher Norman

Roberto Sanchez

Bethany Scheerer

Allison Shumate

Dante Steele

Ngoc Kim Tang

Sienna Wroten

Bowie State

University of Maryland University College

University of Maryland College Park

University of Baltimore

Towson University

Towson University

Mount St. Mary's University

University of Maryland College Park

Salisbury University

Towson University

Towson University

Salisbury University



Scholarships to these outstanding applicants will total \$22,000 for this academic year alone.

Additionally, five of these students have been selected to receive special recognition awards at an upcoming seminar. Those students and their corresponding awards are listed below:

Ryan Cantrell

Dante Steele

KeiAsia Coates

Christopher Norman

Bethany Scheerer

Sidney Weinberg Award

Melvin Menes Award

Norris "Dave" Crockett Award

Donald R. Hull Award

George Spriggs Jr. Award



Fundraising efforts include candy sales, 50/50 raffles, annual wreath and holiday decorative pieces promotion, and general donations. To learn more about the MSA Scholarship Foundation or to make a donation, please visit [msascholarships.org](https://msascholarships.org).

Because of your donations and continued support, we really can make a difference in the future of many students. We thank you and look forward to seeing you at an upcoming seminar!

## Seasonal Wreaths & Decorative Pieces

The Maryland Society of Accountants Scholarship Foundation is again partnering with Lynch Creek Farm to provide you seasonal wreaths and decorative pieces.

Purchase through our special link and the Foundation will receive a 20% commission on each sale; or if you prefer, make a cash donation for 100% commission!

Visit the following website:

<https://www.lcffundraising.com/teams/146285-msa-scholarship-foundation>

1. Click on **Support Now**
2. Click on **Shop Now** to purchase wreaths/decorations  
OR **Donate Now** to make a cash donation
3. Click on **Support Now**

*We thank you for your continued support of our scholarship program!*



# Millennials and Retirement: The To-Do List

by Jim Seminara

Retirement saving is not on most millennials' list of top priorities. That may be why many experts expect that millennials will not be able to retire until well into their 70s.

In fact, according to Gallup's 2014 Economy and Personal Finance poll, the top financial concerns of millennials are student loan debts, lagging wages, housing and living costs, bills and credit cards/debt, and lack of employment.<sup>1</sup>

Despite your current expenses, it is not too early to consider retirement planning. And there are some steps you can take to start saving right away.

**Budget:** A budget that prioritizes savings can help you take a closer look at your recurring and nonrecurring expenses each month to set aside a reasonable amount.

And the first step in prioritizing savings? Taking a look at retirement plans available to you.

## Retirement Plan Types

**401(k):** Some retirement savings accounts offer good tax advantages and investment opportunities. In fact, many employers offer programs like 401(k)s that contribute to the plans on your behalf. This is a retirement plan that you can start investing into right away.

**IRA:** A traditional IRA is a tax-deferred retirement savings account. This means that you only pay taxes when you take the money out at retirement. The advantage here is that you do not need to pay taxes on any of the dividends, compound interest payments or capital gains you earned over the years until you withdraw your money. However, for both 401(k)s and IRA's any amount you withdraw before age 59 ½ will typically subject you to income taxes and a 10 percent penalty.

You may also have heard about Roth IRAs. The difference between the two is that traditional IRA contributions are state and federal income tax deductible for every year you contribute, but you pay income taxes when you withdraw at retirement age. Roth IRAs are not tax-deductible, but like

traditional IRAs, their growth is not taxed. Unlike traditional IRAs, however, your withdrawals at retirement age are not taxed.

**Invest:** In addition to retirement plans, you may want to invest for long-range goals like buying a house or other major asset. Remember, different investment vehicles come with different expenses and charges. That is why you may want to look at investments like index funds and mutual funds or even annuities with low expense ratios across a wide range of asset classes for diversification.

## Retirement Savings: How Much?

It depends on your goals, lifestyle, cost of living and various other factors.

**15 percent:** One rule of thumb is to save 15 percent per year.

**8 times:** Another rule is to save roughly 8 times the amount of your final salary. For instance, if your ending salary is \$75,000, you may want to save around \$600,000.

**70 percent:** A third common rule is to replace a minimum of 70 percent of your pre-retirement income, which is the average income for roughly the last ten years leading up to retirement. Seventy percent is an estimate, but the point is that retirement can be expensive. So that number may be a good place to start in order to maintain your standard of living.

## Retirement and Financial Priorities

Retirement saving is difficult when so many other financial issues might seem like they should have priority. Saving, let alone investing, may not seem feasible as you try to make ends meet.

But not saving early for retirement may put you at risk of having to retire later than you want or under less-than-ideal circumstances.

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

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## Solo and Small Firm Principal's Conference

The Solo and Small Firm Principal's Conference is right around the corner! This year we're in Bethany Beach, DE at the Bethany Beach Ocean Suites by Marriott from November 2-4. You'll have the opportunity to network with other attendees, discuss topics relevant to your business and your clients, and enjoy the weekend at an all-inclusive resort. If there's a particular challenge in your practice, you should attend to get ideas for ways to solve it. Register now on [msatp.org](http://msatp.org), or by calling us at the office at 1-800-922-9672.