

The **FREE STATE** Accountant

A Publication of the Maryland Society of Accounting & Tax Professionals



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Password Managers

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CPA firm performing audits and preparing personal income tax returns. He began his State career in May 1970 with the Comptroller's Office, Revenue Administration Division (formerly Income Tax Division) as an internal auditor. As a result of becoming knowledgeable of the processes and responsibilities in each department of the Division, he was appointed as an Assistant Director in September 1986. In 1997, Jim was appointed by the late Comptroller Louis L. Goldstein to the position of Director of the Revenue Administration Division replacing the late George H. Spriggs, Jr. After the 2010 election, Comptroller Peter Franchot appointed Jim as the Comptroller's Ombudsman where he worked closely with the Comptroller, Comptroller's Chief of Staff and members of the General Assembly to assist individuals and businesses to resolve issues when progress had discontinued when using the normal procedures in dealing with the various divisions within the Comptroller's Office. Jim retired December 31, 2012 after 42.4 years with the Comptroller's Office. Jim is an avid reader, enjoys riding his Harley, helping his neighbors in his community and is a big New York Yankees fan!



Bob Jennings, CPA, EA is a nationally renowned author and speaker, presenting continuing education classes to over 100,000 tax professionals over the last 20 years all over the world. Bob is a licensed CPA (Indiana), a licensed CFP, an IRS Enrolled

Agent and a Registered Tax Return Preparer. Bob is also a prolific author and has published over 60 professional articles in such magazines as the Journal of Accountancy as well as many other professional and consumer publications; annually authors several tax, accounting and technology manuals; and is a regular columnist for FoxBusiness.com. As the founder of his own regional CPA firm in 1984, Bob has dealt exclusively with individual and small business financial issues for over 30 years. Bob appears regularly in the media and has been quoted extensively by numerous publications. He has recorded an extensive number of information videos, DVD's and instructional clips available on his website at TaxSpeaker.com.



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).



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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.



Marc Reibman is co-founder of USB Payment Processing NE, Inc. After graduating from the University of Maryland, he began his merchant services career in September of 1992 when he moved out to California. After moving back to Maryland in 1996 to be

back with his family, Marc Reibman partnered with Donny Lala to start USB Payment Processing NE, Inc. With 27 years of experience, Marc 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 MREIBMAN@usbne.com.



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,

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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.



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 the President of MSATP.



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Securing Your Practice's Future Through Innovation and How MSATP Was Challenged To Do the Same

by Ellen Silverstein

A behind-the-scenes overview of our new education plans and the need to continually innovate.

"Without change there is no innovation, creativity, or incentive for improvement. Those who initiate change will have a better opportunity to manage the change that is inevitable." – William Pollard

As the Maryland Society of Accounting and Tax Professionals, we pride ourselves on our commitment to challenge and support our members to innovate their businesses and our industry at large. While larger corporations may have more R&D resources, make no mistakes about it, the ability to innovate is a unique and competitive advantage that small businesses have.

Why is this?

1. You're closer to clients.

For one, as small businesses, we are often closer to our clients. The ability to hear immediate needs, concerns, and challenges in the market and then shift accordingly gives small businesses a wonderful opportunity to outpace their competitors. We see this time and time again with start up's who take on larger enterprise organizations. Think of videoconferencing software company Zoom, whose recent IPO in April gave it a stock market value of \$15.9 billion.

Founded in 2011, this startup, now gaining the illustrious title of "unicorn", disrupted long-time competitors like Cisco who were much larger and went public over 20 years ago. The secret to their success? Pinpointing the limitations of available options, frustrations of consumers, and building a platform to address it.

From their founder Eric S. Yuan, "In 2007 WebEx was acquired by Cisco and I became Cisco's Corporate VP of engineering, in charge of collaboration

software. I often met with customers, and in my conversations with them learned they weren't happy with the current collaboration solutions, including WebEx. I firmly believed I could develop a platform that would make customers happy, so in June of 2011, I decided it was time to make the video communications solution I imagined during my college train trips a reality."

2. You can pivot more easily.

As stated above, bigger isn't always better. While we certainly strive to scale our businesses, ultimately, size can be an impediment to innovation. Layers of bureaucracy can result in barriers and lag time when bringing new products and services to market. As small business owners with teams of let's say 10, it's easier for us to shift systems, procedures, and more, to adjust to an evolving market in real time.

Why is this important to you and why is it important to the Society?

As a Society, we recently decided to embrace change for our 60th Anniversary. While our sixth decade gave us the opportunity to reflect on the stability and history of the Society, we know that the future of the Society rests in our ability to look onward to tomorrow.

This is why we have released our new 60th Anniversary Continuing Education Plans. When Sandy, the board of directors, our many advisors, and I sat down this year the fundamental question became:

"What can we offer to our members that will best address their needs and set them up for success?"

In doing this deep digging, we realized that standard member tiers like "Principle" and "Associate" may no longer resonate with our base. What we wanted to do, what we felt we needed to do, was to create pathways and

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plans to support where you currently are in your journey, not just what title you have.

The resulting Education Plans are built around courses we know you value most (1040 Seminars and 2 Hours of Ethics) while also providing complimentary membership. To read more about the plans and how they can help ensure you're on track with both your CPE's and your business growth, [click here](#).

We knew it wouldn't be an easy undertaking; the membership structure we used to offer has been in place since the inception of our Society. However,

we do think this shift in thinking to be a beneficial one for you. It is our commitment to you that ultimately overrode any hesitations we had around revamping our model this year (trust me, there were a few hesitations (we are all creatures of habit), as only natural when implementing large-scale change).

Some closing thoughts...

Above all, I want to underscore that we are in a time where we are seeing MAJOR shifts in our industry. With technological advances and platform releases like G Suite and Xero, small tax preparation and accounting businesses

are in a unique place to win, and we truly believe that.

Instead of being paralyzed by changes, let them inspire you, knowing that you can enact change in a much quicker fashion than your larger competition. As always, we are here to support you, not only with innovation initiatives, but in any way we can. Onward!



An Unexpected QBI Problem

by Bob Jennings

Most professionals know the rules regarding health insurance paid for 2% S corporation shareholders. The old IRS Notice 2008-1 tells us to add health insurance paid for 2% shareholders in an S corporation to their W-2, Box 1 (only) assuming it is non-discriminatory.

The first issue we ran into this year in our Taxspoker Q&A series was the question about what to do with spouses and family members of 2% shareholders. The attribution rules from IRC Section 318 and the related Regulations at 1.318-1 state very clearly that “An individual is considered to own the stock owned, directly or indirectly, by or for his spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance), and by or for his children, grandchildren, and parents.”

What this means is that the spouse, children, grandchildren and parents are also treated as owning 2% of the stock, without regard to whether they are a dependent or not. This means two things; first, that health insurance paid for these folks should also be added to their W-2, box 1 and deducted by the S corp as wages; and second, that since they are treated as owning 2% of the stock they also qualify for the self-employed health insurance deduction.

The problem we encountered this year is directly related to the above summary. Because the additional health insurance is not usually subject to FICA or Medicare, many taxpayers and preparers are mistakenly just taking the self-employed health insurance deduction on the 1040 without adding the amount to the W-2 or complying with the requirements to qualify for the SE health deduction.

For an S corporation shareholder to qualify for the SE health insurance deduction on the 1040, the S corporation must either pay the premiums directly, or reimburse the shareholder for the premiums by year end. The S corporation then artificially adds the premium to W-2, Box 1 wages and deducts the amounts as wages, not insurance. The shareholder then receives an artificially increased W-2, which is offset by the reduced S corporation income, but the shareholder then also qualifies for the SE health insurance deduction, so that by the end there is 1 addback of income, 2 deductions of the same amount and 1 net deduction. Many professionals wonder why we go through all of this, and mistakenly just have the shareholder pay the insurance personally and then incorrectly take the SE health deduction, but the reasons for these calculations go back to an earlier era when the SE health insurance deduction was less than the

current 100%.

Here is an example:

Let's say Sue's corporation has \$100,000 of income before her own officer wages of \$50,000. If Sue pays \$10,000 of health insurance for herself through the S corp, the S corp will show a net profit of \$40,000 (after adding in her health insurance to her W-2), and will qualify her for an \$8,000 QBI deduction. Sue will receive a \$60,000 W-2, \$40,000 of K-1 income, a \$10,000 SE health deduction and an \$8,000 QBI deduction and pay tax on \$82,000. Be careful not to reduce QBI a 2nd time by the SE health deduction which already reduced QBI by \$10,000 with the W-2 addback at the S corp level.

Now let's say Sue decided not to go through with this ridiculous exercise and paid her health insurance personally, and incorrectly went ahead and took the same \$10,000 SE health insurance deduction. She will receive a \$50,000 W-2, \$50,000 of K-1 income, and an incorrect \$10,000 QBI deduction, and an incorrect \$10,000 SE health insurance deduction, paying tax on \$80,000. By not following the correct treatment, Sue has understated her income by \$2,000.

The same example applies to her spouse, kids, grandkids and parents that work in the S corporation!

Password Managers

by Al Giovetti

Cyber security experts agree that clicking on links in emails is the largest cause of a breach of cybersecurity. (Remember that no one can agree on the definition of a breach). Be very careful NOT to click on links or download files from emails. Establish a firm-wide "no click policy" and stick with the policy. Even if the email looks legitimate, it may be a new form or phishing. "Phishing is the fraudulent attempt to obtain sensitive information such as usernames, passwords and credit card details by disguising as a trustworthy entity in an electronic communication."

It was recently reported that [773 million email accounts](#) have been hacked. Almost everyone's passwords have been hacked. All you need to know if you have been hacked is to type into your browser "have I been hacked." Several websites will pop up with tools to find out if your email or other passwords have been hacked. One such website is "haveibeenpwned.com." Have I been power owned dot com tells you if your email account has been compromised? If this is the case, you need to change your password.

Detailed information on the definitions of data breaches by state can be found on various websites, such as [Varonis](#).

Two-factor authentication can help with making you safer. But when it comes right down to it, no one is safe. Every single day more accounts and passwords appear on the dark web – a place where you can buy log-in and passwords for nearly every account in the world for "pennies on the dollar." Usually, the guy who hacks your password does not use the password to steal your identity (or charge leather bustiers and surf boards in San Diego – yes, that happened to me). The hacker that steals your information does not usually commit the crime, but sells the information to the crooks on the dark web.

Many two-factor authentication methods use an authentication application on your iOS iPhone or Android smart phone. These methods can fail to add additional protection when your smart phone is stolen, lost, or cloned. One method, phone cloning, lets

you intercept incoming messages and send outgoing ones as if your phone were the original. If both phones are near the same broadcast tower, you can also listen in on calls. To clone a phone, you have to make a copy of its SIM card, which stores the phone's identifying information. See more on phone cloning [here](#).

Even the safety questions that protect your accounts may be found out by hackers. It is safer to use gibberish or a string of nonsense characters that mix upper and lower case, numbers and symbols instead of telling people where you met your spouse with a real city or location.

Most of us have hundreds of accounts and each account needs a powerful and random password to protect the account and a means to change these passwords easily. Many people keep their passwords for all their accounts in a book or a file conveniently stored near their computer, which, if you get robbed, can be easily found.

To this stage of cyber security danger enters the password manager. There are many password managers. And as you may know, I have tried password managers in the past, only to find them difficult to use, with very steep learning curves.

With the development of the Internet and the lack of very real human support, we are left to tackle these steep learning curves on our own, or pay exorbitant fees that most of us cannot afford to an IT (information technology) professional that makes more money per hour than you or I do. What is the use of protecting yourself against cyber thieves if you have no money left over after you pay for cyber protection?

What follows is my experience with Dashlane. Both Christine and I purchased the \$4 per month Dashlane business account plan without the Virtual Private Network (VPN). The first problem with Dashlane, other than the steep learning curve, is that it is impossible to get anyone on the phone to help with your problem. Support emails to Dashlane are followed by suggestions to read their text files or look at their videos.

Often what you see on Dashlane support videos does not correspond to the problem that you are having, so

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that you waste your time watching a video or reading a text support file that might be interesting but does not address your problem. Another problem that I found was that wading through the videos and text files until you found something that addressed your problem was extremely time consuming.

One nice feature of Dashlane is that you can automatically change one, more than one, or all your passwords "automatically." This sounds great, but I could never get this feature to work. There is a nice video and text file that shows how it works, but I could not get the sequence of steps provided to work, and if the feature is being fixed, I have not seen a fix or upgrade that makes it work correctly.

Dashlane will also generate a safe password. When it does generate the safe password, the user cannot see what the password it that is generated so that you can write it down somewhere. The password is even safe from the user because Dashlane does not remember the password, nor does Dashlane tell you the password. Very secure, but counterproductive.

Dashlane does (most of the time) fill in your information credentials on a website, once you have them correctly input into the program, and Dashlane does reach out to all your devices – Mac OS, apple iOS, Windows, and Android – and record all your passwords automatically.

If you have used different passwords in the past, Dashlane may still pick up some of your older passwords, so you may have to update these files to the newer passwords to eliminate multiple logins and password combinations for the same account.

I was able to figure out how to manually change passwords and

use them to log into accounts that use a browser. The process was not easy. Since the automatic password generator and password changer did not work, you had to come up with your own safe password combinations and then manually enter them into the Dashlane.

Repeated attempts to get someone at Dashlane to help with learning the features of the program or to prepare this article for publication were futile. Dashlane does not use a traditional press relations firm to help present their product so that you can work out the problems with a real person.

Dashlane does sync all your passwords across all your devices. And while there is an automatic form-filling feature, most cyber experts recommend that you do NOT save your credit card information to the password manager since no program, no matter how sophisticated, is safe.

Dashlane scans the darkweb and warns you if any of your accounts appear there for sale.

Dashlane does not have special handling for nonstandard logins, and has limited support for Internet Explorer. (The Dark Web is a term that refers specifically to a collection of websites that exist on an encrypted network and cannot be found by using traditional search engines or visited by using traditional browsers.)

Dashlane promises that if you, the user, die, they will transfer your passwords to some individual that you have named in the program. Fortunately, I have not had the occasion to test this feature myself.

As always, I am happy to discuss IT and cybersecurity with you at any time. Give me a call, write me an email, drop by the office or pull me aside during a break at any MSATP event.





Tax Reform and The New Benefits of Cost Segregation

by Jerry Lotz

The old saying is “money doesn’t grow on trees”, but could it be hidden in the walls? Since the landmark Hospital Corporation of America v. Commissioner court case in 1997, tens of thousands of owners of commercial and residential rental buildings have utilized cost segregation studies to significantly reduce taxable income by accelerating depreciation. The resulting tax reduction can be \$50,000 to \$70,000 for every \$1,000,000 in building cost basis. Rather than depreciating a building over 39- or 27.5-year lives, the 1997 ruling allows building owners to separate building components into shorter depreciation lives of 5, 7, and 15 years. A few examples of 5-year property are cabinets, moldings, carpet, wall coverings, and specialty lighting. Fifteen-year property would include retaining walls, external signage, parking lots, landscaping, among many other components. While there is general awareness of cost segregation within the business community, many building owners are unaware of recent changes in the tax code that have made cost segregation more valuable than ever.

Previously, bonus depreciation was just 50% and only applicable to new construction. The Tax Cuts and Jobs Act

(TCJA) of 2017 now allows 100% bonus depreciation for both new and existing buildings acquired after 9/27/17. Bonus depreciation applies to 5-, 7-, and 15-year components which is typically 20-35% of a building cost basis.

Under the TCJA, 5-, 7-, and 15-year building components can now be fully depreciated in the first year of ownership, rather than over 39- or 27.5-years. A new owner of a \$1,000,000 building acquired in December 2018 can often obtain a \$70,000 tax reduction in the first year of ownership, compared to about \$10,000 in the first year under the old rules.

Two other valuable and often overlooked changes resulted from the IRS Tangible Property Regulations (TPR) issued in 2013. When a renovation of an existing building is undertaken, the TPRs now allow a cost segregation study to determine the value of the building components discarded during the course of the renovation which can then be taken as a loss, less what had previously been depreciated. The deduction must be taken in the same year the renovation was completed.

To be compliant with the Regulations, a building must be broken down into its nine building systems: Building structure including roofs, Plumbing systems, Electrical systems, Escalators, Elevators, Fire protection and alarm systems,

Security systems, Gas distribution systems, and any other system defined by the U.S. Treasury.

When a building component must be newly repaired or replaced, the newly repaired component must be compared to all similar components within the building system. If the new component is repaired more than two years after the original date of occupancy, does not make the component materially better, and does not affect more than 33% of all the like components, it must be expensed. The Regulations also offer three Safe Harbors that can be utilized which also can help the building owner expense repairs if any of the above rules do not apply.

It is difficult to take advantage of this favorable ruling without a cost segregation study. Owners of commercial or residential rental property acquired or renovated in the last 15 years for at least \$300,000 likely qualify for a cost segregation study. Today more than ever, being aware of and taking full advantage of cost segregation benefits is crucial for building owners wanting to maximize their property investment in the most tax-efficient manner.

Feel free to contact Jerry Lotz for more information, or to request a FREE Pre-Analysis of tax savings for any property.

Swimming with the Sharks

by Jonathan Rivlin



When swimming with sharks, the most dangerous ones are those that can't be seen. Or as a certain former Secretary of Defense phrased it, "...Unknown unknowns..."

As members of MSATP, we invest our hard-earned dollars and our valuable time minimizing that population of 'unknown unknowns' to...known unknowns.

This past tax season, my career became old enough to have a legal drink, and after this past tax season, my career could sure use one, and some antacids.

During this past season, as we were rolling out some new apps, to be detailed in the TechTips column on the MSATP blog, and as we looked to do some actual marketing, because you know, business, we came across such a shark.

Internal Revenue Code Section 7216 has been with us since 1971.

This was not addressed during my college years, nor in my exam prep courses, nor in continuing ed. Not sure what your experiences have been, but from my view, this little slice of legislation has been out there in the ether like a slow growing tumor waiting to strike only when it's too late.

Code Section 7216 is a criminal statute, with fines of up to \$1,000 and 1 year in jail, per occurrence.

Like most things legislative, the intent is actually laudable – safeguarding client data. And like most things legislative, it intersects greatly with that other natural law, the law of unintended consequences.

In essence, the law governs two categories of behavior, "Use" and "Disclosure". Use can be reduced to 'marketing' and disclosure can be reduced to 'offshoring and outsourcing'. (There is a difference between offshoring and outsourcing, but that will be for a future column.)

At this point, you may be saying to yourself, "Well, I don't outsource, and I don't do any marketing, so let's turn the page." Not so fast! This law is written to be interpreted broadly. There are things you may be doing that run afoul of this law – this CRIMINAL law – that you should be aware of.

Let's focus on the 'Use' component for a moment. The

original intent arose when CPA firms were soliciting their tax clients to sign on with various wealth management firms for the purpose of enrolling them in IRAs and other assorted products. I have no doubt that there were some outlier stories in those days, but the response by Congress was a sledge hammer, or sword of Damocles.

Remember though, the law is to be interpreted broadly; everything from the definition of tax preparer, taxpayer information, communication, etc. Here are some of the 'uses' of taxpayer data that require consent:

- 1) Newsletters published by the firm or preparer
- 2) Newsletters published by affiliates of the firm or preparer
- 3) Press releases and other articles published by the firm or preparer
- 4) Notifications of upcoming seminars, webinars, and etc
- 5) Promotion and new hire announcements from the firm or preparer

Drink that in for a moment. How many other industries do you know where it is literally a criminal act to engage in basic marketing?

But wait you say, "Well newsletters are old-school, we engage with people on Facebook, LinkedIn, etc." Remember, the law is interpreted broadly. Did you get consent to engage with those people? "Sure, they accepted my invite/like/poke/whatever."

Well, if you didn't use the required form and language of the consent, then you haven't properly obtained consent. And, the rules specifically state that this consent cannot be included in an engagement letter, it must be separate from all other forms.

So this brings us to 'word of mouth' – referrals, the best form of marketing. We've never undertaken a formal marketing campaign before — all of our clients have come from referrals. But, in reading the tea leaves as it were, the marketplace is changing. Referrals may be strong, but they may not be the

primary source of firm growth in the coming years. Marketing will become an imperative, in truth, it always has been.

More than marketing for firm growth, participating in the public sphere by posting videos, blogs, and articles about taxes and other matters within our ken is an ethical imperative. Recently, I came across a video on YouTube where the 'influencer' (how's that for a career that didn't exist 20 years ago?) proceeded to explain how one could purchase a fully tricked out Tesla Model 3 for \$74 a month. It was as amusing as it was misleading, but the kicker was when he explained that since he was using the vehicle for business, he was going to get a fat tax deduction for it. More telling than that was the comments from the influencer's subscribers (influencees?) – with many begging the guy to post a video on how they can reduce their taxes.

Let's just say this guy isn't a member of any chapter of a (state abbreviation)-SATP.

We have to market our firms. "In business you're either growin' or dyin', there ain't no third direction." Tommy Boy

We have to publish articles to counter all this nonsense with quality information. We have to dazzle those with brilliance those who are baffled by BS.

Apologies to W.C. Fields

We have to do all this in a way that doesn't run us afoul of a criminal law.

The purpose of the law, to give taxpayers some control over their information and to curb some of the excesses from the more aggressive marketers out there is still necessary and laudable, but this particular law is still that heavy sword of Damocles, hanging over us.

As a 'right to practice issue', I would argue that if certain behaviors and procedures are put in place, that a safe harbor should exist for those well-meaning practitioners who may have gotten some of the technicalities wrong. But that's not where we're at today.

A couple years ago, Bob Jennings noted that there was increased scrutiny applied around the 1099 vs W2 issue. Though it seems like there has always been scrutiny on this issue. The question is, if we reached out to our clients to discuss this with them, was that act a violation of the Use portion of this law? A good attorney could argue this either way.

And that leads us into the final part of this article:

In a seemingly unrelated matter, I had a discussion with a rep from one of the apps that we profiled in Tech Tips concerning another accounting app that recently had some issues regarding the Disclosure portion of the 7216. The rep, someone who has been very good to me, startled me with his credulity, taking the CEO of this other app's word that this law has never been enforced and it's nothing to be concerned with.

Let's just stop right there.

Whether the law has ever been enforced or not is irrelevant. It is the law; we need to comply with it. Regardless of what some pushy CEO says, but that will be a topic for the next installment in this story, which, like the threads of a tattered sweater, gets more complicated as you tug on the errant thread, hoping to stem any further unraveling, but knowing the only way to stop it is to cut it off.

Jonathan Rivlin is a CPA practicing in the Baltimore metropolitan area. He has been a member of the MSATP since 2002 and currently serves as a Delegate on the Society's Board of Directors.

RECORDS RETENTION GUIDELINES TO REMEMBER

Warm weather and rainy days bring the urge to purge. But before you clean your file cabinets or declutter your computer files, it's important to review these guidelines.

FEDERAL TAX RECORDS

Most tax advisors recommend that you retain copies of your finished tax returns indefinitely to prove that you actually filed. Even if you don't keep the returns indefinitely, hold onto them for at least six years after they're due or filed, whichever is later.



STATE TAX RECORDS

Ask your tax advisor how long you should keep your records for state tax purposes, because states have different statutes of limitations for auditing tax returns.



ESSENTIAL PERSONAL RECORDS

Your files probably contain more than just tax information. Certain essential documents should be kept indefinitely, like:

- Birth and death certificates,
- Marriage licenses and divorce decrees,
- Social Security cards, and
- Military discharge papers.



BILLS AND RECEIPTS

It's OK to shred most bills like phone bills or credit card statements. But, if you purchase a big-ticket item, keep the bill for as long as you have the item. You never know if you'll need to substantiate an insurance claim in the event of loss or damage.



REAL ESTATE RECORDS

Keep your real estate records for as long as you own the property, plus three years after you dispose of it, and report the transaction on your tax return. Throughout ownership, keep records of the purchase, as well as receipts for home improvements, relevant insurance claims and documents relating to refinancing.



INVESTMENT ACCOUNT STATEMENTS

To accurately report taxable events involving stocks and bonds, you must maintain detailed records of purchases and sales. It's a good idea to keep these records for as long as you own the investments, plus until the expiration of the statute of limitations for the relevant tax returns.



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Understanding What Merchant Services Are All About

by Marc Reibman

With summer vacation in mind, this is a good time for business leaders to get a back-to-fundamentals review of merchant account services.

What is a merchant account service provider?

A merchant account provider, aka a credit card processor, is an entity that provides you with the ability to accept credit and debit cards, as well as other forms of electronic payment.

What is a merchant account statement?

A merchant account statement is a monthly statement that details the deposits to your payment processing account, as well as the fees you are paying for merchant processing services.

What is a merchant services account?

A merchant services account is an arrangement between you and a credit card processor that allows you to accept credit and debit cards from your clients or customers. There are two types of merchant accounts; one for card-present (CP) transactions and one for card-not-present (CNP) transactions.

Card-present vs. card-not-present accounts

An account for card-present transactions is utilized when the cardholder and payment card are physically present at the point of sale. An account for card-not-present transactions is used when neither the cardholder, nor the payment card are present at the time of sale (or they are present but electronic data is not provided during the transaction). An example of a CNP transaction is an order placed by mail.

Why does card-present and card-not-present matter?

The main reason it matters if a transaction is considered card-present or card-not-present is the method of processing can impact your costs. As a general rule, the interchange rates charged by the major credit cards are



lower for card-present transactions than card-not-present transactions, because a card-present transaction is considered lower risk than one where the card is not present.

What is interchange?

Interchange is the fee assessed by the payment card issuing bank for every transaction. Typically, interchange accounts for the majority of the cost involved in processing a transaction. There are hundreds of different payment cards and thus hundreds of different interchange fees.

What is a discount rate?

In credit card processing, the discount rate is the percentage charged on each transaction you process. The rate varies depending on the type of payment card and the type of transaction.

What is a payment gateway?

A payment gateway is software on a third party provider's server that facilitates the transmissions between your business and the payment network. Your business needs a payment gateway if you want to accept card payments online or via mobile devices.

What is a chargeback?

A chargeback occurs when a cardholder disputes a transaction; the disputed amount is withdrawn from your account until the matter is settled. The chargeback/dispute process has been evolving of late, with Visa® instituting a

new global program in April 2018 that is designed to simplify the dispute process and resolve claims more quickly. For more information see the Visa Claims Resolution Summary.

What is PCI compliance?

If you are PCI compliant it means you are adhering to the Payment Card Industry Data Security Standards (PCI-DSS), which were created by the four major payment card brands to improve the security of electronic transactions. To learn more about the standards and how they are administered visit the site maintained by the Payment Card Industry Security Standards Council.

What is EMV?

EMV cards include a micro-processing chip that generates a unique number (cryptogram) for each sale. An EMV card is "dipped" into the slot on an EMV-enabled terminal (as opposed to "swiped"), which improves security because the cryptogram changes with every transaction, making it almost impossible to use a cloned or lost/stolen card. Your business should be EMV compliant; businesses that are unable to support EMV cards may be held financially responsible if a fraudulent transaction occurs.

Other questions?

For more information or for just a review of your current credit card processing statements give us a call at 410.828.4286 and ask for Marc or Donny.

Legislation Enacted Applicable To Personal Income Tax, Corporate Income Tax, Sales & Use Tax, and Estates & Trusts

by James M. Arnie



PERSONAL INCOME TAX

HB0380/SB0265 - Income Tax Subtraction Modification - Mortgage Forgiveness Debt Relief - Extension

Repeals the termination date of the State income tax subtraction modification for qualified mortgage debt relief. The bill takes effect June 1, 2019.

HB0387/SB0477 - Income Tax - Subtraction Modification - Maryland Transportation Authority Police

Expands the existing State subtraction modification for local law enforcement officers who reside in political subdivisions, in which the crime rate exceeds the State's crime rate, by extending eligibility to Maryland Transportation Authority (MDTA) law enforcement officers who reside in these qualifying political subdivisions. The bill takes effect July 1, 2019 and applies to tax year 2019 and beyond.

HB0403 - Income Tax Credit - Qualified Farms - Food Donation Pilot Program - Expansion and Extension

Extends the food donation income tax credit for qualified farms for two additional tax years through tax year 2021 and expands the program so that farm businesses in Baltimore County also qualify for the credit. Additionally, the bill decreases the maximum amount of tax credit certificates that the Maryland Department of Agriculture (MDA)

may issue annually from \$250,000 to \$100,000. This bill takes effect July 1, 2019.

HB0482 - Income Tax - Endowments of Maryland Historically Black Colleges and Universities and Film Production Activity - Establishments and Alterations

Creates a tax credit against the State income tax for 25% of a donation made to a qualified permanent endowment fund at Bowie State University, Coppin State University, Morgan State University, or University of Maryland Eastern Shore. The Comptroller's Office (1) may award a maximum of \$240,000 in tax credits each year (\$60,000 per University) and (2) is required to adopt regulations to implement the tax credit application, approval, and monitoring processes. The credit may not exceed the tax liability imposed in the year (any excess is not refundable). Any unused amount of the credit can be carried forward to future tax years until the full amount of the excess is used. A taxpayer claiming the credit is required to add back the amount of the credit claimed to Maryland adjusted gross income or Maryland modified income. If the maximum amount for an institution is not awarded in the tax year, the tax credits can be awarded for the institution in the next tax year.

Maryland small or independent film entity means a qualified film production entity that: has been incorporated in Maryland for at least

3 months; is independently owned and operated; is not a subsidiary of another entity; is not dominant in its field of operation; employs 25 or fewer full-time employees; and employs Maryland residents as at least 40% of its workforce in the film production activity.

A qualified film production entity may claim a credit against the State income tax for film production activities in the State in an amount equal to the amount stated in the final tax credit certificate approved by the Secretary for film production activities.

The tax credit for donations to Endowments of Historically Black Colleges and Universities shall remain effective for a period of 4 years and 6 months and, at the end of December 31, 2023, with no further action required by the General Assembly, shall be abrogated and of no further force and effect. This bill takes effect July 1, 2019 and applicable to all tax years beginning after December 31, 2018.

HB0810/SB0870 - Income Tax - Child and Dependent Care Tax Credit - Alterations

Expands the existing child and dependent care tax credit by (1) increasing the current phase-out that reduces or eliminates the benefit for an individual whose income exceeds \$92,000 for single filers and \$143,000 for married filing jointly and (2) making the credit refundable for taxpayers with federal adjusted gross income of \$50,000 or less filing as single and \$75,000 or less if married filing jointly. The value of the tax credit is equal to 32% of the federal tax credit claimed for an individual whose FAGI is \$30,000 or less (\$50,000 if married filing jointly). For individuals, the value of the credit is reduced by one percentage point for each \$2,000 or fraction of FAGI in excess of \$30,000. For married filing jointly, the value of the credit is reduced by one percentage

point for each \$3,000 or fraction of FAGI in excess of \$50,000.

For each taxable year beginning after December 31, 2019, the maximum income thresholds under Subsection B of this section and the maximum income thresholds under Subsection (E) of this section shall be increased by an amount equal to the product of the maximum income thresholds and the cost-of-living adjustment specified in this section. The cost-of-living adjustment is the cost-of-living adjustment within the meaning of Section 1(F)(3) of the Internal Revenue Code for the calendar year in which a taxable year begins, as determined by the Comptroller, by substituting "calendar year 2018" for "calendar year 2016" in Section 1(F)(3)(A) of the Internal Revenue Code. If the increase determined under paragraph (1) of this subsection is not a multiple of \$50, the increase shall be rounded down to the next lowest multiple of \$50. Bill takes effect July 1, 2019, and applicable to all tax years beginning after December 31, 2018.

HB0814/SB0802 - Maryland Easy Enrollment Health Insurance Program

Establishes a Maryland Health Insurance Option. By January 1, 2020, the Maryland Health Benefit Exchange (MHBE), the Maryland Department of Health (MDH), and the Comptroller must develop and implement systems, policies, and practices to implement the Option, which must be available for residents to use when filing a State income tax return beginning with tax year 2019. The bill takes effect June 1, 2019.

HB1093 - Income Tax - Subtraction Modification - Retirement Income (The Jonathan Porto Act)

Specifies that death benefits paid as a result of service in the U.S. Uniformed Services qualify for the existing military retirement subtraction modification. The bill takes effect July 1, 2019, and applicable to tax years beginning after December 31, 2018.

CORPORATE INCOME TAX

HB0175 - Maryland Research and Development Tax Credit - Sunset Extension

Extends the termination date for the research and development (R&D) tax credits to June 30, 2022. Bill takes effect July 1, 2019.

SB0136 - Corporations - Corporate Records and Electronic Transmission

Authorizes the records of a corporation to be maintained by means of any information storage device, method, or electronic network or database, including a distributed electronic network or database, if (1) the records can be converted within a reasonable time into clearly legible written form for visual inspection and (2) the records maintained on an electronic ledger or distributed electronic ledger can be used for specified purposes. Such records must be converted into a clearly legible written form on request of any person who is entitled to inspect the records. The converted written records are



admissible as evidence and must be accepted for all other purposes to the same extent as original written records. The bill also makes a series of changes regarding the acceptance and use of electronic transmissions. Bill takes effect October 1, 2019.

SB0137 - Corporations - Maryland General Corporation Law - Miscellaneous Provisions

Alters requirements relating to (1) corporate board vacancies; (2) informal action by stockholders of a corporation; (3) quorums to vote on corporate matters; (4) notice requirements for specified merger agreements; (5) the effective date of a consolidation or merger if the successor is a foreign entity; and (6) the powers of Real Estate Investment

Trusts (REITs). The bill also makes a series of technical and clarifying changes. Bill takes effect October 1, 2019.

SB0581 - Economic, Housing, and Community Development - Opportunity Zone Incentives

Establishes the Opportunity Zone Enhancement Program, to be administered by the Department of Commerce (Commerce). Qualifying businesses within an opportunity zone may qualify for enhanced incentives under specified tax credit programs. The bill also makes specified changes to the Heritage Structure Rehabilitation Tax Credit Program and extends the program through fiscal 2024; Commerce and the Maryland Historical Trust (MHT) must adopt regulations implementing the bill. This bill has various effective dates.

SALES AND USE TAX

HB0454 - Sales and Use Tax - List of Tangible Personal Property and Services - Publication

Requires the Comptroller's Office to publish a comprehensive list, on the agency's website, of tangible personal property and services that are subject to the State sales and use tax. The list must be updated at least quarterly and detail any additions, deletions, or revisions to the list. This bill takes effect October 1, 2019.

HB0809/SB0945 - Sales and Use Tax - Taxable Services - Telephone Answering Service

This emergency bill defines a telephone answering service for purposes of the State sales and use tax. A telephone answering service includes a service provided to a customer that consists exclusively of the taking of messages, either by an automated system or by a live operator and transmitting the messages to the customer. A telephone answering service does not include the physical act of answering a telephone on behalf of a customer, if the act is incidental to and less than 5% of the service provider's total gross receipts in a calendar year. This bill takes effect immediately upon being enacted.

HB0884/SB0533 - Sales and Use Tax - Short-Term Rentals

Expands the definition of (1) tangible personal property to include a short-term rental and (2) taxable price and vendor to include a short-term platform for the purpose of collecting and remitting the State sales and use tax. A short-term rental is defined as the temporary use of a short-term rental unit to provide accommodation to transient guests for lodging purposes in exchange for consideration. A short-term rental platform is an Internet-based digital entity that (1) advertises the availability of short-term rental units for rent; and (2) receives compensation for facilitating reservations or processing booking transactions on behalf of the owner, operator, or manager of a short-term rental unit. A short-term rental unit is a residential dwelling unit or a portion of the unit used for short-term rentals. A short-term rental unit includes a single-family house or dwelling, a multifamily house or dwelling, an apartment, a condominium, or a cooperative. A booking transaction is defined as any transaction in which there is a retail sale of an accommodation. A sale includes a booking transaction made through a short-term rental platform.

Airbnb is an online booking platform for people to list, find, and rent limited residential lodging. In addition to Airbnb, there are several other lodging hosting platforms including, VRBO, Booking.com, HomeAway, Flipkey, Homestay, Go With Oh, One Fine Stay, House Sitting, VillasDirect, and Outdoorsy.

Airbnb has made arrangements with 41states (including Maryland) and local governments to collect and remit sales and hotel rental taxes on behalf of the lodging operators. However, in Maryland Airbnb reports only collecting the hotel rental tax in Montgomery County. Bill takes effect June 1, 2019.

HB1301/SB0728 - Taxation of Online Sales - Marketplace Facilitators and Sellers of Other Tobacco Products

Requires a marketplace facilitator and a marketplace seller to collect and remit the State sales and use tax under specified circumstances. The bill also establishes tax

collection and licensing requirements for marketplace facilitators and marketplace sellers. In addition, the bill alters the distribution of sales and use tax revenues by requiring that for each fiscal year (1) the first \$100.0 million in sales taxes collected from marketplace facilitators and certain out-of-state vendors be distributed to the general fund and (2) revenues in excess of \$100.0 million from these sales taxes be distributed to the Blueprint for Maryland's Future Fund. Finally, the bill requires specified out-of-state sellers to pay the tobacco tax on pipe tobacco and premium cigars on which the tobacco tax has not been paid. The bill takes effect October 1, 2019 and does not apply to any sales of tangible personal property or taxable services for delivery in the State before October 1, 2019.

SB0283 - Sales and Use Tax



- Clean of Commercial or Industrial Buildings - Community Property Exemption

This emergency bill exempts from the State sales and use tax cleaning services of a commercial or industrial building owned by a common ownership community or retirement community that is used for specified purposes. Under the bill, the State sales and use tax does not apply to the cleaning of a commercial or industrial building if the building is owned by a common ownership community or retirement community and used for (1) classrooms; (2) dining; (3) exercise; (4) food preparation or cooking; (5) meetings or gatherings; (6) offices used by the common ownership community for management of

the community; (7) recreation; (8) security; (9) sports; (10) storage; or (11) any other common use. The exemption does not apply to the cleaning of a commercial or industrial building or the proportionate share of the building that is used for a purpose that requires the collection of the sales and use tax. This bill takes effect immediately upon being enacted.

ESTATES AND TRUSTS

HB0099 - Estates and Trusts - Elective Share of Surviving Spouse

Alters the elective share for a surviving spouse by making numerous changes to statute governing the calculation, election, and payment of an elective share of a surviving spouse. The bill, among other things, (1) establishes definitions and procedures for calculating the estate subject to election; (2) expands and clarifies procedures by which the surviving spouse may elect to take an elective share; (3) establishes additional procedures for the payment of an elective share; and (4) establishes standards for court modification of an elective share. The bill also updates specified personal financial power of attorney and limited power of attorney forms contained in statute and make other technical, clarifying, and conforming changes. Bill becomes effective October 1, 2020.

HB0398 - Code Revision - Estates and Trusts

This code revision bill revises, restates, and re-codifies the laws of the State related to estates and trusts. Throughout the bill, specific references are substituted for general references to "he," "him," and "his," as statute generally requires the use of words that are neutral as to gender to the extent practicable. Additionally, specific references are substituted for general references to "it" for clarity. The bill states that it is the intent of the General Assembly that the bill be construed as a non-substantive revision, and that the bill may not otherwise be construed to make any substantive changes to the law.

HB0898 - Trusts - Maryland

Trust Act - Methods of Notice

Expands and clarifies the means of communication that may be employed to provide specified notice under the Maryland Trust Act (MTA). The bill also makes technical, conforming, and stylistic changes. Bill takes effect October 1, 2019.

HB0932 - Maryland Trust Act - Division or Consolidation of Trust

Specifies that if a trust instrument does not provide for the consolidation or division of a trust, a trustee may, without a court order (1) divide a trust into two or more separate trusts or (2) consolidate two or more trusts into a single trust. The bill prohibits a trustee from dividing a trust or consolidating trusts if a beneficiary objects in writing within 30 days after the trustee provides notice as required under specified

provisions of the Maryland Trust Act (MTA). Bill takes effect October 1, 2019.

HB1140 - Wills - Execution of Wills - Witnesses and Wills Executed Outside the State

Specifies that, for the purpose of serving as a witness to the signed of a will, a witness is not in the presence of the testator if the witness is in a different physical location that the testator, regardless of whether the testator can observe the witness through electronic audio-video or other technological means. The bill clarifies that a will executed outside the State is properly executed if it is executed in conformity with the law of the place where the testator is physically located when the testator signs the will. The bill also makes technical and clarifying changes.

The bill applies prospectively and may not be interpreted to have any effect on any will executed before the bill's October 1, 2019 effective date.

HB1305 - Estates and Trusts - Administration of Estates - Waiver of Fees - Required

This bill requires, rather than authorizes, a register of wills to waive the fees for administration of an estate if (1) the real property of the decedent is to be transferred to an heir of the decedent who resides on the property or is encumbered by a lien and subject to a tax sales and (2) the estate is unable to pay the fees by reason of "poverty." The bill applies prospectively and does not apply to the estate of any decedent who dies before the bill's October 1, 2019 effective date.

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