



ARKANSAS SOCIETY OF • ACCOUNTANTS

RESPECTED ACCOUNTING PROFESSIONALS SERVING OUR COMMUNITIES

Monthly Newsletter

February 2007

Tax News
Cost of Living Allowances for IRAs
Top Ten Taxpayer Victories
Interactive Web Sites

• FROM YOUR PRESIDENT'S PEN •



Dear Members:

A successful street vendor sold bagels every morning for \$.50 each. One morning a jogger ran by the vendor's stand, dropped two quarters in the cup, and without taking a bagel kept on running. This continued for several months. One morning the bagel vendor stopped the runner. Upon being stopped, the runner immediately said, "I'll bet you want to know why I run by every morning, drop two quarters in the cup without taking a bagel, and keep running." The bagel vendor replied, "No, I just wanted you to know that the price of bagels has gone up to \$.60 each." The point of the story is that the bagel vendor was not afraid to let his "customers" know that the price of his product had increased.

The Board of Governors met in November to discuss issues important to the members of our Society. The number one topic at the meeting was the 2007 educational program. The goal of the education committee and the Board of Governors is twofold. First, we want to offer topics of interest to our members – topics that will provide useful information that you can use in your practice. And second we want to provide an educational program which will enable our members who are licensees of the State Board of

Public Accountancy to meet the annual State Board CPE requirements. I can assure you that the education committee is well on its way to achieving these goals.

By now you are well on your way to another successful year. If your practice is like ours, much of your January was occupied by W-2's and 1099's and year-end closings for your write up clients. February will be spent in more year-end closings for write up clients, preparation of 1120 and 1120S returns (due to the ides of March), preparation of 1040 and 1065 returns and normal write up services. Every lending institution wants a year-end financial statement, so you're contending with that. By March, as work comes in you're telling your staff to "throw it on the pile and I'll get to it later," As the "pile" grows, by the grace of extensions, you get a little relief on the corporate returns. In April, the "pile" gets bigger, more extensions are filed, you live through the 16th of April (thank the calendar people for giving us that extra day this year), you go into hiding for a few days after the 16th and then you "slow down" for the remainder of the year. And so, life goes on.

Remember, if your "bagels" are worth \$.60 you should charge \$.60 for them.

Ronny Woods P.A.
President

IRS can't avoid answering questions. A company filed a refund suit against the IRS. During the suit, it filed questions for the IRS to answer. The IRS answered them all by saying its attorneys lacked sufficient knowledge about them to give an answer. The company protested. **Court:** The issue wasn't whether the IRS's attorneys knew the answers to the questions, but whether the IRS itself knew the answers. Dodging the questions by saying the attorneys didn't know the answers violated court rules and was nonresponsive. Thus, the "no answer" answers are struck, the company is allowed to ask a new set of questions in excess of what court rules normally allow, and the IRS is directed to answer them.

Desert Management Corporation, Court of Federal Claims, No. 06 86 T.

I Am Back!

I realize that most of you do not know that I suffered a heart attack sometime in early November that resulted in my having by-pass surgery on December 4, 2006. I don't want to bore all of you with the details, just suffice to say, I had complications and spent about 21 days in the hospital in December.

I am not full speed ahead yet, but am working on it. I have moved my office to my home and hope to just work for you people in the future.

As most of you know, I have cut my practice to almost nothing in years past. So I will be working on reducing that to zero in the near future.

I am glad to be back and hope all of you are glad to have me back.

I want to thank all of you who have had me in your prayers and also on your prayer list at your church. I really feel the power of prayer helped me. Thank you!!!!

TAX NEWS

Standard mileage rates for deductible driving announced for 2007.

Business driving, 48.5 cents per mile.

Medical or moving purposes, 20 cents per mile.

Driving on behalf of charity, 14 cents per mile. (This is no change from 2006)

The IRS is auditing less deeply, but more broadly. It's changing its philosophy away from collecting every last dime in an audit to collecting 80% of what might be available in a greater number of audits.

A top IRS official recently explained that the IRS typically can collect 80% of the tax recoverable in an audit within the first 20% of the time it would take to collect the whole amount. So it is most cost efficient for the IRS to be satisfied with the 80% while using the time to conduct a larger number of audits.

Two extra benefits: (1) the less intensive audits avoid annoying taxpayers, while (2) the larger number of audits deters tax cheating due to increased risk of being audited.

The Taxpayer Advocate Service (TAS) is helping more taxpayers. The TAS is an independent organization within the IRS that helps taxpayers resolve problems with the IRS.

Examples: Improper enforcement actions by the IRS miscredited tax paymentslost refunds. National Taxpayer Advocate Nina Olson reports that almost 250,000 cases came to the TAS during 2006 up 25% from 2005, due to. increased IRS enforcement efforts.

How to get help: Learn how the TAS works and get local phone numbers for it on the IRSWeb site. At www.irs.gov click on "Taxpayer Advocate."

COST OF LIVING ALLOWANCES FOR IRA's

For the first time, certain IRA related limits have been adjusted for inflation.

Starting in 2007, a fully deductible IRA contribution for active participants in qualified retirement plans will be allowed if modified adjusted gross income (MAGI) does not exceed \$52,000 for singles, or \$83,000 on a joint return. The deduction phases out for MAGI between \$52,000 and \$62,000 for singles, or \$83,000 and \$108,000 in a joint return. No deduction is allowed once MAGI exceeds these limits.'

If one spouse is an active participant in a qualified retirement plan and the other is not, the non-participant spouse can make a fully deductible IRA contribution if the couple's MAGI does not exceed \$156,000. The deduction phases out for MAGI between \$156,000 and \$166,000. No deduction is allowed once MAGI exceeds this amount

Roth IRAs: An after tax contribution can be made to a Roth IRA only if MAGI does not exceed. \$99,800 for singles, or \$156,000 on a joint return. The contribution limit phases out for singles with MAGI up to \$114,000, or \$166,000 for couples on a joint return. Married persons filing separately cannot make a Roth IRA contribution.

Important note: The \$100,000 MAGI limit for qualifying to convert a traditional IRA to a Roth has not been adjusted for inflation.

THE TOP TEN TAXPAYER VICTORIES OF 2006

Hiring a spouse can make family medical costs deductible. Maureen Speltz ran a daycare center in her home as a proprietorship. Her

husband had a full time job but also worked for her about 13 hours a week as a part-time employee.

Maureen adopted an employee medical benefit plan that reimbursed employees for medical expenses they paid, such as health insurance premiums and out of pocket medical costs not covered by insurance. She paid her husband about \$8,000 through the plan over two years, deducting the payments as a business expense while he took them as a tax free benefit. But the IRS challenged the arrangement as a sham used to get a tax deduction for otherwise non-deductible expenses.

Court: Such employee benefits plans are proper, and nothing bars a business owner's spouse from participating in them. Here, the husband was a genuine employee who performed real work under his wife's direction. Moreover, his total compensation was reasonable for the work he did. So the arrangement was upheld.

Peter Speltz, TC Summary Opinion 2006-25.

Business trip costs needn't be minimized to be deductible. Attorney Richard Berge frequently drove more than 70 miles, round trip, to a law library to research cases for clients. But the IRS said that there were many closer law libraries that he could have used, including one at the law school he graduated from, only five miles from his home. It said that the real reason Berge used the distant library was that his family lived nearby, enabling him to deduct the cost of visiting them. It disallowed \$2,710 of his driving deductions.

Court: Berge documented the fact that he put in real workdays at the distant library, which he said he preferred to nearer ones. The work done showed that the primary purpose of the trips was work, even if he did also visit his family. Deduction allowed.

Richard Orin Berge, TC Summary Opinion 2006-29.

Gambling can be a business even without big winnings. James Castagnetta filed a Schedule C, Profit or Loss from Business, with his tax return saying that he engaged in the business of “para mutual wagering.” It reported \$52,501 of wagering income, from which he deducted losing wagers and other business expenses that reduced his net wagering income to \$234.

IRS objection: Castagnetta earned his living as a truck driver. His gambling didn’t have a profit motive and wasn’t a business, as shown by its mere \$234 net. Thus, he couldn’t file a business’s Schedule C... the full \$52,201 of gambling income increased his adjusted gross income (AOI), which increased other items on his return with AGI-related limits... and his expenses were deductible only among miscellaneous itemized deductions - which are deductible only to the extent that they exceed 2% of AGI.

Court: Castagnetta worked 40 hours a week on horse race analysis while driving a truck only part time, creating detailed computerized data on horses, consulted regularly with racing professionals, kept extensive businesslike records, and actually had a small profit. All of this indicated that he did have a profit motive, so his gambling qualifies as a business and qualifies for full business deductions.

James Castagnetta, TC Summary Opinion 2006 24.

Six hour layovers make “away from home” expenses deductible. A ferry Captain on Puget Sound, Washington, worked 17 hour days on runs completed within 24 hours that included a six hour layover at an away-from-home port. He paid for his own meals, and deducted them and other costs as away-from-home travel expenses. But the IRS disallowed the deductions, saying he was never away from home. He had used no premises or hotel room in the distant port, but only slept on the boat when necessary.

Court: The captain did sleep during the layovers,

and the need to sleep on a trip is a test of being “away from home “ for tax purposes. The fact that he slept on the boat did not matter, so the captain qualifies.

Marc G. Bissonnette, 127 TC No. 10

If it sounds too good to be true... Promoters of tax schemes continue to make compelling arguments to gullible individuals that income they earn is not subject to US income tax based on Internal Revenue Code Section 861. Under the promoters’ theory of this section of the code, US citizens are subject to income tax only from foreign based activities. This position has been shown to be without merit, false, and a misapplication of the law and the regulations. *Fallen star:* Actor Wesley Snipes has been indicted for tax evasion because he submitted amended tax returns claiming refunds of millions of dollars based on the Section 861 argument. The indictment also alleges that Snipes did not listen to his tax adviser, who advised against participating in the scheme. Snipes, who was arrested on December 11, 2006, pleaded not guilty, was released on a \$1 million bond and returned to Namibia, where he was filming a movie. At a news conference, one of his lawyers said, “Mr. Snipes was a victim of his tax advisors.” It’s tax season – don’t be duped.

IRS concedes. Airline “ticket tax” does not apply to ticket provider's fee. A business sells airline tickets to travelers. It buys them from airlines in arm’s-length transactions, charges their cost to the travelers, and adds its own fee.

Issues: Who is responsible for the airline “ticket tax,” which is a percentage of ticket price, and does it apply to the business's fee?

IRS ruling: The business is independent, not an agent for any airline. It does not provide transportation but only facilitates the purchase of taxable transportation. Thus the tax is owed by the traveler and is to be collected and remitted the airline (not the agency) on the cost of the ticket alone, not on the agency 's fee.

SMALL ACCOUNTING ERROR DOES NOT JUSTIFY IRS REJECTION OF INSTALLMENT AGREEMENT

Omar Pineda owned a small business, fell behind on his taxes, and was facing an IRS levy when he requested an installment agreement to pay them off. An IRS agent required him to file a full statement of his finances to prove that he was compliant with the law and thus eligible. When the agent found a \$175 discrepancy between the numbers on Pineda's accounting statement and tax return, he rejected the agreement. Pineda appealed.

TaxCourt: The \$175 error was so minor that at trial, the IRS agent couldn't even say what was needed to fix the error. Thus, the IRS had abused its discretion in rejecting the agreement.

Omar Urbina Pineda, TC Summary Opinion 2006 35.

Deductions can be allowed without records.

Karen Hough ran a nursing business as a sole proprietor. She claimed many deductions without having records to prove them. She then went to tax court.

Court: A witness testified that Hough ran a real business, describing its extent. And under the Cohan Rule - named for famed Broadway showman George M. Cohan - business expenses can be deducted when the facts show that they must have been incurred even if there are no records to support them. (Exceptions: Congress has barred such deductions for automobiles and meal and entertainment expenses.)

Thus, \$25,000 of deductions disallowed by the IRS were restored and permitted as having necessarily been incurred by the business,

Karen V. Hough, TC Memo 2006 58.

IRS has more to prove in "unreported income" cases. The IRS said that Karen McManus received \$15,800 of income that she hadn't reported, and

taxed her on it. But she simply denied ever having received the income and went to Tax Court.

Court: Normally, an IRS assertion that tax is due is presumed correct, and it is up to the taxpayer to prove otherwise. But in "unreported income" cases, the IRS bears the burden of proof in showing that the income was in fact received. At the trial in this case, the sole IRS witness merely repeated what had been said in the previously sent IRS notices, and admitted that she had no other factual knowledge about the case. Since the IRS presented no evidence showing that the alleged income had ever been paid, its tax claim is dismissed.

Karen McManus, TC Memo 2006 57

Refund claim can be increased after the deadline to make it.

A business filed for a tax refund of \$9,000 just before the deadline for doing so - then, after the deadline, it increased its claim to \$3.6 million. The IRS rejected the increased claim, saying it was made too late.

Court: A refund claim can be increased after the filing deadline provided the original claim gave the IRS sufficient notice of the grounds for the refund, so that the increase would not come as a surprise. The size of the increase here is "somewhat unusual," but the grounds for it, whether the IRS had properly credited an earlier multimillion-dollar tax payment were explained in the original claim. Therefore, the IRS had been placed on notice of the issue and wouldn't have been surprised once it examined the facts. Thus the increased claim is permitted.

INTERACTIVE WEB SITES

TaxAlmanac (www.taxahanaac.org) This new Web site is perhaps the best at harnessing the power of the internet. It provides full tax research resources (Tax Code, IRS regulations and rulings, etc.), tax news, and more than 30,000 articles on a broad range of tax subjects (with more added daily), and discussion forums available free.

TaxAlmanac was created as a community for tax professionals (working in all fields, in large and small firms as well as in academia) in which they can contribute, converse, and help each other on any subject.

Created by tax experts at Intuit, the site is non-commercial and has no advertising. Accuracy of contributions is monitored, though not ensured, by the sites creators, who organize the content, and by the critiques of fellow expert contributors, who already number in the thousands.

NOTE Because this is not a fully edited/reviewed tax site, you must approach its information somewhat skeptically and take time to consider the critiques of numerous contributors..

- Misc.taxes,moderated, the long running internet discussion group for taxes. Just ask your question and its likely to get an answer from a tax pro at no charge.

Professionals and taxpayers both participate and talk with each other. All comments pass through a tax professional moderator to ensure that they stay "on topic" – political and personal comments are eliminated. Discussions tend to be about practical tax planning and return filing advice for individuals and small businesses. As with TaxAlmanac, a certain amount of good sense is called for don't assume everything you read here is accurate.

The easiest way to reach this discussion group is through Google groups. At www.google.com click on :”More”, then “Groups,” then in the “find a group” box, enter “misc.taxes.moderated.

This will bring up live discussions.You can also search the archive entering any subject that interests you in the “search this group” box, and read everything that everyone has ever said about it in the group since it was created in 1996.

[And even more web sites for tax help,](#)

Tax Court: www.ustaxcourt.gov. Learn bow to fight an unfair IRS audit result. The small case division of Tax Court hears disputes involving up to \$50,000 per tax year with simplified procedures and no lawyer necessary.

Federation of Tax Administration: www.taxadmin.org Formed by state tax authorities, this provides extensive information about state taxes and interstate comparisons, with links to tax agencies in every state.

IRS www.irs.gov This is, of course, the king of tax web sites, providing federal tax forms and publications. "Free File" return filing services, refund information, Taxpayer Advocate services, local IRS contact information and news and much, much more.

**SEE YOU NEXT MONTH
UNTIL THEN, HAVE A GOOD DAY**



**APPLICATION FOR MEMBERSHIP IN
THE ARKANSAS SOCIETY OF
ACCOUNTANTS**

P.O. Box 725
Newport, Arkansas 72112
laverne1@cox-internet.com
www.arspa.org

Last Name _____ First Name _____ Middle Initial _____ Business Phone _____ Home Phone _____

Business Address _____

How many years of accounting have you had? _____ Date of Birth _____

Sole Practitioner [] Partner [] Employee [] Corporate Officer []

Name of Firm _____ Number of Employees _____

Name of Partner(s) _____

Are you a Licensed, Registered or Certified Public Accountant? _____ If yes, give License# _____

Are you an Accredited Public Accountant? _____ If yes, give Accreditation # _____

Are you an Enrolled Agent _____ If yes, give EA # _____

Do you hold an Associate or Baccalaureate degree with a minimum of 24 semester hours in Accounting? Yes _____ No _____

Are you engaged in any other trade or profession? _____ If yes, please describe _____

Please list other accounting organizations in which you hold membership: _____

I hereby state that the accompanying statements are correct to the best of my knowledge and belief. I further state that I will abide by the Constitution and By-Laws of the Society and will practice in strict conformity with the Code of Ethics and Rules of Professional conduct adopted by the Society.

Date _____ Signature of applicant _____

Annual dues are payable IN FULL in advance and are prorated for credit by ASPA on a monthly basis to August 31 - the end of ASPA's fiscal year.

[] Membership Annual Dues \$85.00 [] Firm Annual Membership \$50.00 [] Diamond State Annual Dues \$15.00
(Non-Residents only)

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*State Society dues payments may be deductible as an ordinary and necessary business expense. However, they are not deductible as charitable contributions for Federal income tax purposes.

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