



NEW YORK CHAPTER CHATTER - DECEMBER 2008

Quiz: What is Form IT-2663 used for?

Mel Wolfson, EA has provided further information about the Taxpayer Bill of Rights discussed in last month's newsletter. Most importantly, New York State has published the information that most non-Circular 230 tax preparers are required to give to their clients (Pub 135). The rules for tax preparers that offer refund anticipation loans (RALs) apply to everyone, including Circular 230 tax preparers. See Mel's article for more important information about this topic. Mel also briefly discusses New York State licensing of tax preparers.

The information below comes from this web site: <http://www.nystax.gov/cbr/default.htm>

Consumer Bill of Rights regarding tax preparers

As a tax preparer, the Consumer Bill of Rights requires you to provide customers with:

- an address and phone number to contact you or your office throughout the year
- **free copies of the current [Publication 135, Consumer Bill of Rights Regarding Tax Preparers](#), prior to any discussions (you must get a copy and are responsible for printing and photocopying)**
- certain disclosures about refund anticipation loans (you are also prohibited from advertising them as refunds)

Certain preparers are exempt from the first two requirements. Different rules apply to tax preparers operating and preparing tax returns within New York City.

The law is effective January 1, 2009.

For more information

- See [TSB-M-08\(7\)I, Consumer Bill of Rights Regarding Tax Preparers](#)

New York Tax Tidbits

▪ **New York State 2009 – 10 Budget**

The following information is courtesy of Sue Fuss, ATA

Governor Paterson's 2009 – 2010 executive budget has the following provisions that affect tax preparers.

Establish Tax Preparer Fee. The budget creates a new fee of \$100 to be paid by all persons who are compensated for the preparation of 10 or more tax returns.

Establish Processing Fee for Paper Tax Returns. The budget creates a new fee of \$10 for filing a paper personal income tax return, which will encourage individuals to file via the internet.

See <http://publications.budget.state.ny.us/eBudget0910/fy0910littlebook/RevenueActions.html> for more information.

This is just a budget proposal and is not the law – yet. Given the dire condition of NY State finances, I'd expect this measure to pass.

▪ **New York State No Longer Sending Forms**

The following information is courtesy of Wendy Loomis, EA.

1. NY is no longer sending Form IT-204-LL to Limited Liability Cos. Folks have to go on the NY Website and download it themselves and figure out their fee. LLC fee is due Jan 30th.
2. NY is no longer sending out Sales Tax forms. There was very little warning on this and the returns due Dec 20th are going to be a nightmare. Again, have to go to NY Website and retrieve forms themselves. Just to have clients remember to do this is going to be interesting.

▪ **New York State Online Tax System**

The following is courtesy of Jim Dickerson, EA.

This was Jim's experience with attempting to register with the New York State online tax system.

He is an EA with 15 years preparing returns and files 250 returns electronically each year. Since he operates as a DBA, and as such files a schedule C, he can not register as a tax preparer since he has no federal employer identification number (FEIN).

Here's a possible work-around from Mel Wolfson, EA. Sole practitioners can in fact register but it is a hassle. The registration system accepts only the FEIN and not a social security number. To register with NYS, you have to get an EIN, go to the IRS and get your ERO information attached to that EIN rather than a Social Security number and wait several weeks for NYS to get an update from the IRS.

It may also be possible for sole proprietors to register if their social security number is linked to an EFIN.

New York is working on a patch to correct this issue.

Welcome to New Members: I've included a list of tax professionals who joined NATP in November 2008 in the table below.

Mike Hayes, EA
Newsletter Editor
Emails: m.hayes@ieee.org (home) or mhayes@cscos.com (work)
Daytime phone: (315) 455-2000

President's Message

Happy Holidays!

As the holidays approach, we know that tax season lurks right behind. We had a great year for our seminars. We saw over 400 attendees! 2008 saw NY NATP at the Commissioner's Taxpayer Advisory Council and at the IRS OIC Forum. 2008 opened new doors for your Chapter.

In my last newsletter, I asked for volunteers to serve the Chapter. In our next newsletter, I will give you the names and contacts of our committee members. If you are interested in serving, please contact me at KMKeaneEA@aol.com.

As the tax season rumbles towards us, let us know if you observe systemic issues. We are here for you.

From my family to yours, we wish you the happiest of New Years, filled with joy, good health and lots of stress free clients!

Yours always,
Kathryn

Kathryn M Keane EA
President, NY NATP

Vice President's Message

Greetings and Happy Holidays to all and best wishes for a prosperous, safe, happy and healthy, New Year. Each of your directors is designated one month out of the calendar year to write for this newsletter. This past year has seen many informative and interesting articles on varied topics offered in a professional fashion.

As your recently elected Vice President it's my turn. However, it's a holiday month and I think a tax article is not needed at this time. What is needed, however, is a little time for reflection and continued thanksgiving as we approach a new tax season. Crunching numbers, long hours, and frustrations beyond normal comprehension will be the norm.

Before you begin and all during the "crisis" time please remember that it's not really a crisis. The season is an opportunity. It's an opportunity to again meet with clients and friends. They are taxpayers for sure, but are just people: People who have needs, stresses, and issues in their lives, as well as tax issues. Each of us as valued professionals has a unique position to serve others with compassion, understanding and support.

Often the daily routine stresses each of us as well. My method of handling the "crisis" is to remember that: "10% of life is what happens to us and 90% is how we react to it". Keep in mind the afflictions of others, the sorrows and pain of others and your tax season minutiae will seem very minor in comparison. Do what you can to the best of your ability with honesty, integrity and care and your upcoming year will be satisfying. Give thanks for all that you have and can do!!

More "Tidbits" from the Vice President

It was gratifying to see familiar and new faces at my portion of this year's education run. Networking and sharing knowledge and personal updates is very rewarding. Thank you for the opportunity!!

The Executive Board, General Board of Directors, and Education committee just finished our December meeting in Middletown and plans are being laid for the 2009 calendar year. Part of the work was to make 2009 committee assignments.

Yours truly has accepted the position of Chair of the Membership-Growth and Retention subcommittee of Membership. My associates are Marty Bleiweiss, Robert Genovese, CPA, and Jeanne Powell, ATA, ATP, CTPx. Our goal is to have 2,500 members by our 25th year including new members and renewal of prior members who may have terminated for any number of reasons. Of course the thrust of this program will be implemented after "tax season" but this writing is an offer for any of you to let us know if you have potential members or know someone who wants to rejoin. You can contact any committee member on the NY Chapter Website available through the National website.

In addition to this committee I have accepted the Chair position of Professional Standards. Our charge is to promote ethical practices and elevate the NYS tax

community. My associates are Kathy Garrow, EA, Michael Hayes, EA, Raj Prashad, EA, Rick Rottkamp, EA, and Robert Genovese, CPA. Our contact information is on the Chapter website at <http://www.natptax.com/ny.html#BOD>.

I am part of the National Conference Committee for Reno, NV in 2009. Rick Rottkamp, EA is the Chair. Let us know if you have ideas or will be attending the 2009 National Conference. Finally, God willing, I will be serving as an education instructor/facilitator this fall.

Most importantly I take this opportunity to thank everyone who has “stepped up to the plate” on all the committees. The Chapter has many non-board members who are serving in various capacities, many are new. **Welcome and Thank You..!!!!**

Ralph
W. Ralph Sommers, EA
Vice President NY NATP

New York State Issues Tax Preparer Regulations **By Mel Wolfson, EA**

While the focus during the past year was on preparer penalties, standards, and disclosure issues at the federal level, New York State added a layer of additional state regulation for tax preparers. On August 5, 2008, the Governor signed into law an act designed to address state concerns.

The new law, [A06217](#), adds Article 24-C to the general business law of New York State. Contained within Article 24-C is Section 372 titled *Consumer Bill of Rights Regarding Tax Preparers*. This section addresses two major issues. Paid preparers, other than those exempted, will be required to provide clients with a copy of the “Consumer Bill of Rights Regarding Tax Preparers” along with year-round contact information. The new law also regulates the way RALs may be marketed *by all preparers* and provides very specific disclosure requirements for these products. There are severe monetary penalties for non-compliance. The law takes effect on January 1, 2009.

The DTF notice implementing this law was issued on November 20, 2008 as TSB-M-08(7)I. The notice is available at:

http://www.tax.state.ny.us/pdf/memos/income/m08_7i.pdf

Disclosure Requirements

The new law requires preparers except those classified as *Exempt preparers* (see below) to:

- Give the “customer” a copy of Publication 135 (Consumer Bill of Rights Regarding Tax Preparers) and answer any questions that the client may have, *before any discussion takes place*. Since the Department does not distribute bulk copies of this publication, preparers should download the current version at:

http://www.tax.state.ny.us/pdf/publications/income/pub135_1108.pdf

- Provide “customers” with year-round contact information. If the person who prepares the return is an employee, partner or shareholder of an entity, the general address and phone number of that entity should be on the receipt.

Exempt preparers are Attorneys, CPAs, EAs, public accountants licensed by NYS, fiduciaries, and employees of an entity who advise or assist in the preparation of a tax return for that entity. Government personnel who as part of their official duties, advise or assist in the preparation of a tax return are also exempt.

All preparers are subject to the RAL Requirements

A RAL may not be advertised as a refund. Any advertising must clearly identify the product as a loan. The ad must include fees charged and the name of the lending institution. Preparers who offer RAL’s must provide specific written disclosure prior to entering into a RAL. The taxpayer must be informed as to the annual percentage rate of the loan, the fees involved and how long it will take to get the refund if the taxpayer does not apply for the RAL.

The law provides that the disclosure be made in writing using at least 14-point type and that it contain the following language:

“You are not required to enter into this refund anticipation loan agreement merely because you have received this information.

If you do sign a contract for a refund anticipation loan, you will be taking out a loan. You will be responsible for repayment of the entire loan amount and all related costs and fees, regardless of how much money you actually receive in your tax refund.

If you do not take out this refund anticipation loan, you are eligible to receive a gross tax refund of approximately \$ (insert amount).

If you do take out this refund anticipation loan, you will be responsible to pay \$ (insert amount) in fees for the loan. After these fees are paid, you will receive approximately \$ (insert amount) as your loan.

The estimated annual percentage rate of your refund anticipation loan is (insert amount) %. This is based on the actual amount of time you will be lent money through this refund anticipation loan.

If you do take out this refund anticipation loan, you can expect to receive your loan within approximately two business days of (insert date).

If you do not take out this refund anticipation loan, you can still receive your tax refund quickly. If you file your tax return electronically and receive your tax refund through the mail, you can expect to receive your refund within two business days of (insert date). If you file your tax return electronically and have your refund directly deposited into a bank account, you can expect to receive your refund within approximately two business days of (insert date)."

Penalties

Failure to comply with any provision of section 372 is punishable by a fine of not less than \$250 nor more than \$500 for the first violation and not less than \$500 nor more than \$750 for *each* subsequent violation.

New York City

The new legislation does not apply to returns prepared in New York City where the Department of Consumer Affairs regulates preparers and those offering bank products. The NYC law containing language very similar to that in A06217 is available on line at:

http://home2.nyc.gov/html/dca/downloads/pdf/tax_prep_law.pdf

The New York City version of the "Consumer Bill of Rights Regarding Tax Preparers" may be viewed and downloaded at:

<http://www.nyc.gov/html/dca/downloads/pdf/consumerbillofrights.pdf>

Are we done yet?

There is ongoing discussion with regard to licensing preparers at the state level. One version of a proposed licensing law is [A01795](#) that includes licensure, annual renewal, document retention rules and educational requirements for preparers not currently regulated by some other body. At this point, the Bill is in committee but it, or a substitute, may be brought to the floor in 2009. Stay tuned!

New members – November 2008

I'd like to welcome the following new NATP members and thank you for joining.

Full Name	City	State
Linda C Aldous	Granville	NY
Dominick Avallone	Bronx	NY
Barbara Avenier, CPA	Monroe	NY
Jamilyn Barna	Brightwaters	NY
Javed Bokhari	Garden City	NY
Michael James Bonanno, EA	New York	NY
George L Brinkley, EA ChFC	Buffalo	NY
Anthony J Burgio	Williamsville	NY
Thomas Cerchiara, EA	Brewster	NY
Suzanne Cortese, CPA	Valhalla	NY
Robert Cranston, CPA	Saugerties	NY
Kevin Del Campo	Carmel	NY
Jean Claude Denis	Brooklyn	NY
Diane Marie Donofrio, EA	Lancaster	NY
Shannon Exford	Watertown	NY
Victoria Chase Ferren, CFP	Rochester	NY
Ernest Gary, CPA	White Plains	NY
David Gitel, EA	New York	NY
Beresford Granston	Mount Vernon	NY
Shabina Jaikaran	South Ozone Park	NY
Elizabeth K Krohn, EA, CFP	Ithaca	NY
Elida Laho	Levittown	NY
Mohamed A Naser, EA	Brooklyn	NY
Lewis R Nitchman III	Ballston Spa	NY
Airinhos Serradas	Garrison	NY
Kristen E Switzer	Trumansburg	NY
Elizabeth M Thompson, EA	Newark Valley	NY
John Tsigakos	Ozone Park	NY
Cynthia Van Houten, CPP	Long Island City	NY
Michael Wisbauer, CPA	Maspeth	NY
Wojciech Wojciechowski	Middle Village	NY
Mark Yakren	Flushing	NY

The State Office of the New York Chapter of NATP

Remember that we are here to help our membership. If you have a New York State tax question contact us. If we can answer you question we will or we will put you in touch with someone who can.

NY Chapter NATP State Office
1129 Front St., Binghamton, NY 13905
Phone (800) 822-3260. Fax (607) 723-1022.
Email NYNATPstateoffice@att.net

Quiz Answer

Form IT-2663, Nonresident Real Property Estimated Income Tax Payment Form is, strangely enough, used to pay the estimated tax due on the sale of real property by a nonresident of New York. The required estimated tax payment is the total gain times the highest New York State income tax rate, currently 6.85%.

Effective for sales or transfers of a fee simple interest in real property on or after September 1, 2003, nonresident individuals, estates, and trusts are required to estimate the personal income tax liability on the gain, if any, from the sale or transfer of certain real property located in New York State. The requirement for payment of estimated tax under Tax Law section 663 does not apply to individuals, estates, or trusts who are residents of New York State at the time of the sale or transfer. It also doesn't apply to the sale of a principal residence. There are some other exceptions as well.