



NEW YORK CHAPTER CHATTER - NOVEMBER 2008

Quiz: How many outreach people does the New York Department of Taxation and Finance have in New York State?

We have an excellent summary written by Nick Kounios about the recent Supreme Court decision regarding state taxation of municipal bond interest.

There have been quite a few changes in New York taxes and administrative procedures that became effective for the 2008 tax year for returns that will be filed in 2009. I've covered a few items below. These include the modification for the Federal Domestic Production Activities Deduction (DPAD), which is no longer allowed for NY; the modification for IRS bonus depreciation, which NY also does not allow; and the Consumer Bill of Rights Regarding Tax Preparers that applies to preparers located outside New York City, which has its own law.

I'll have more NY updates in the next few newsletters.

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

In the spirit of Thanksgiving, I want to thank everyone who reads these newsletters (especially those who like them! ☺). I also want to thank the officers and directors who write articles and support me in preparing this newsletter, especially Kathryn Keane who writes great President's Messages.

Happy Thanksgiving to all.

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Newsletter Editor

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President's Message

I write this from the road for the National 1040 at Syracuse. What a year this has been! I have enjoyed my 1040 presentations throughout NYS. It has given me the opportunity to meet so many members that do not attend our own NYS Seminars. Hopefully, those of you who have not attended a Chapter Education Event will consider it next year. This year's program was very highly received.

In Turning Stone, we had our Annual Meeting and the Half Day Education Event. During our time there, the Board elected new officers. W. Ralph Sommers of Guilderland is the new Vice President, Kathleen Garrow of Stony Creek is our new Treasurer, and Michael Novick of New York City is our new Secretary. We saw the retirement from BOD service of Rocky Rhodes of Cochection, Sally Fahey of Endicott, and Karl Herba of Chittenango. All are staying on the Education Committee. We also saw the election of new Board members Martin Bleiweiss of Ithaca, Lou Kolano of the Hudson Valley, Raj Prashad of Queens, and John Shannon of the Syracuse Area. The BOD appointed Bob Geneovese of New York City to stand in for the Western NY Region.

This coming year will be an exciting year. The State Legislature is considering a bill which will require registration and continuing education requirements for tax preparers. This will be an amazing change to the industry and with that our Chapter will be there ready to serve.

As this year ends and another tax season looms ahead, I am thrilled to have another term as your President. If you have any ideas to share, please contact me at KMKeaneEA@aol.com.

Have a wonderful Thanksgiving!

Kathryn
Kathryn M Keane, EA
President NY NATP

Get Involved from Your Desk!

The Chapter has many committees that you can work on without ever leaving your office. They operate exclusively by e-mail and the occasional phone meeting. Please consider getting involved in one of the electronic committees: Nominations, By Law, Government Relations, Regional, Membership Growth and Retention, and Education. If you are interested in serving as an electronic committee member, please email Chapter President Kathryn Keane at KMKeaneEA@aol.com, put NYNATP in the subject line.

An Overview and Update on a Recent Court Case Involving TAX EXEMPTION OF MUNICIPAL BONDS

By Nick Kounios

During the NY NATP workshops last year, one of the topics was the taxation of Municipal Bonds.

Municipal bonds are exempt from Federal taxation. Generally, states with income taxes exempt their municipal bond interest from state taxation, but other state municipal bond interest is subject to taxation in the state. Municipal bonds that are exempt from both Federal and State taxation are referred to as double exempts. This exemption reduces state revenues, but is viewed as a subsidy to the cost of borrowing for the state and its localities.

A recent court case, **Davis vs. Department of Revenue of Kentucky**, (Argued November 5, 2007 No. 06-666.) declared state statutes limiting the state income tax exemption to “in-state” issues is unconstitutional.

In this case, the Davis’ had challenged the ability of the State of Kentucky to exempt in-state municipal bond interest while taxing interest received by Kentucky state residents that hold municipal bonds issued by entities of other states.

The Kentucky Appeals Court ruled that it is unconstitutional for Kentucky to tax interest earned on out-of-state issues while exempting interest earned on in-state municipal bonds.

The Department of Revenue of Kentucky appealed the decision so the case was sent to the US Supreme Court.

Supreme Court Issues a Decision:

On May 19, 2008, in a 7-2 decision, the Supreme Court let stand the statute in Kentucky’s tax code that allows Kentucky to tax income from bonds issued in other states while exempting income from bonds issued in Kentucky.

New York Tax Update

Here are a few of the changes in New York Tax Law.

- Modification for Federal Domestic Production Activities Deduction (DPAD). For tax years beginning on or after January 1, 2008, the federal domestic production activities deduction allowed under section 199 of the federal Internal Revenue

Code will not be allowed for New York State income taxes under article 22 (individuals), 9-A (franchise tax on business corporations), 13 (tax on unrelated business income), 32 (franchise tax on banking corporations), and 33 (franchise tax on insurance corporations). An addition modification will be necessary. See TSB-M-08(12)C, (3)I for more information.

Income Tax Memos (TSB-M) can be found at http://www.nystax.gov/pubs_and_bulls/memos/income_memos.htm.

- Modification for IRS bonus depreciation. The federal economic stimulus act amends IRC section 168(k) to allow a 50% special depreciation allowance for certain qualifying property placed in service after 12/1/07 but before 1/1/09. The 50% special depreciation allowance is not allowed on the NYS income tax return for articles 22, 9-A, 32, and 33. An addition modification is required.

There is no new modification for taxpayers who take the federal section 179 deduction. In other words, New York allows the section 179 deduction in full.

- Consumer Bill of Rights Regarding Tax Preparers. New York State passed a law that's similar to the New York City Taxpayer Bill of Rights (still applies to preparers located in NYC) that was discussed in the May 2008 edition of this newsletter. This law applies to may tax preparers outside of New York City and is effective 1/1/09. Here's a summary:
 - Tax preparers must provide receipts with an address and phone number they can be reached at year round.
 - The NYS Department of Taxation and Finance (DTF) must produce and make available to taxpayers and tax preparers an informational flier regarding consumers` rights and laws concerning tax preparers to be called a "Consumer Bill of Rights Regarding Tax Preparers".
 - Among other things, the flyer must contain basic information on what a tax preparer is and is not required to do for a consumer, such as the preparer's responsibility to sign a return, that a tax preparer may not be required to accompany a consumer to an audit but the company may have a voluntary policy to accompany consumers to audits. It must also have the telephone numbers of the DTF for information and complaints.
 - Each tax preparer subject to this law shall obtain a current Consumer's Bill of Rights Regarding Tax Preparers flyer from the department and shall reproduce it so that it is clear and legible. As of January first of each year, each tax preparer shall give to each customer, free of charge, a current, legible copy of the Consumer's Bill Of Rights Regarding Tax Preparers prior to any discussion with the customer. Each such tax preparer shall also verbally direct the consumer to review the Consumer Bill of Rights Regarding Tax Preparers and shall answer any questions the consumer may have about its contents

- Any tax preparer who advertises the availability of a refund anticipation loan (RAL) may not directly or indirectly represent such a loan as a refund. Any advertisement which mentions a refund anticipation loan must state conspicuously that it is a loan and that a fee or interest will be charged by the lending institution. The advertisement must also disclose the name of the lending institution. There are several other requirements in this law regarding RALs. They basically require the tax preparer to tell their clients that they're not required to take a RAL, to clearly disclose the cost, that a RAL is in effect a short term loan, and other alternatives to a RAL.
- The tax preparer must complete the required disclosure accurately with all relevant information for each taxpayer and ensure that the completed disclosure form is signed by the taxpayer before he or she enters into a refund anticipation loan.
- The law has civil penalties of \$250 to \$500 for the first violation and \$500 to \$750 for subsequent violations. Ouch!
- The law does not apply to some corporate or business enterprise employees regarding returns prepared for their company; attorneys; fiduciaries who prepare income tax returns on behalf of the fiduciary estate; certified public accountants; public accountants licensed pursuant to the New York State education law; an employee of a governmental unit, agency or instrumentality; and enrolled agents.

See <http://assembly.state.ny.us/leg/?bn=S02970&sh=t> for the full text of the law. For those who attended one of our NY NATP education seminars, the full text of the law is included in the booklet you received, starting on page U-178.

I have a version that I “cleaned up” to make it easier to read. Drop me (Mike Hayes) an email (address above) if you’d like me to email you a copy.

New members – October 2008

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

| Full Name | City | State/Territory |
|-----------------------|-------------|-----------------|
| Christine Adorno | Astoria | NY |
| Pedro Alvarez | Bronx | NY |
| Angela D Bouchard | Oneonta | NY |
| Mary M Bouchard, CPA | Trumansburg | NY |
| Craig Bunting | New York | NY |
| Thomas A Cascino | Stony Brook | NY |
| Marijean Clemer, CPA | Hempstead | NY |
| Kenneth Dinowitz | Rye | NY |
| Jay L Dollinger, ATTY | Melville | NY |

| Full Name | City | State/Territory |
|---------------------------------|---------------------|-----------------|
| Elia D'Urso | Hartsdale | NY |
| Ethel Marie Dutcher | Walton | NY |
| Richard A Finelli, CPA | Babylon | NY |
| L William Forskin, CFP | Brooklyn | NY |
| Jacinta Friend, EA | New York | NY |
| Donald J Furman, CFP, ChFC, CLU | New Paltz | NY |
| Robert Genovese, CPA | Howard Beach | NY |
| Chris Golden | Syracuse | NY |
| Andres Gonzalez | Yonkers | NY |
| Scott Gordon | Red Hook | NY |
| Maxwell H Haines | Auburn | NY |
| Ray Halloway | Springfield Gardens | NY |
| Jung Han | New York | NY |
| Marlies Y Hendricks , CPA CGA | Amherst | NY |
| Gary M Hoffman | New York | NY |
| Holly M Klett, EA | Owego | NY |
| Myriam Laboy Rivera | New York | NY |
| Jon LaDelfa, CPA PFS | Mount Morris | NY |
| Patricia Leisenheimer | Maspeth | NY |
| Bennett Lerner, CFP EA | Plainview | NY |
| Elizabeth Martinez | Ridgewood | NY |
| Toni Mazzella | Newburgh | NY |
| M Evan Metalios | Jackson Heights | NY |
| Clemente Migliaccio | Brooklyn | NY |
| Michael Moscoso | New Rochelle | NY |
| Neil Noden, FCMA | Greenlawn | NY |
| Angel Ortiz, Jr | Poughkeepsie | NY |
| Maracelle Pagan | Dunkirk | NY |
| Karen N Parker | Brooklyn | NY |
| Diane Perrella, EA | Gloversville | NY |
| Allen J Quinlan, EA | Clay | NY |
| Nancy L Rawling, EA | Stephentown | NY |
| Bertha Robles | New York | NY |
| Linda Strong | Williamson | NY |
| Meredith Sullivan | Flushing | NY |
| Rachel Weber | Kingston | NY |
| Mohamed Zaman | South Richmond Hill | NY |
| Rosemary Zizzo | Hopewell Junction | 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 your question we will or we will put you in touch with someone who can.

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1129 Front St., Binghamton, NY 13905
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Quiz Answer

One! Ms. Suzanne Reusch is the only tax outreach person in the entire state. Many of you have probably seen Ms. Reusch give presentations about New York taxes at various meetings of tax professionals. Given the New York State budget crisis, Ms. Reusch, whose home office is in Buffalo, is likely to be the only outreach person for quite some time. Fortunately, Ms. Reusch does a great job and is a tremendous asset for both New York State and tax professionals.