

September 2009

CHAPTER OFFICERS

PRESIDENT

Joseph Gniadek
508-747-1456
jgniadek@msn.com

VICE PRESIDENT

Christine Miarecki
413-283-9407
cmiarecki@comcast.net

SECRETARY

Jeffrey Schweitzer
781-440-6655
jeff@nfsnet.com

TREASURER

Dorothy Dimo
413-436-5406
dimund@comcast.net

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President's Message

As I write this, I am on the plane heading back home after the 2009 NATP annual conference in Reno, NV. When I registered for this conference, I was unsure as to what I would get out of it. Boy, am I glad that I went. There were so many classes which I learned from including, but not limited to, current developments; AMT cases; Form 1041--deductible or not; changes to estates and trusts; dependents; depreciation; passive activities; and, of course, ethics. Although there were twelve members from MA at the conference, I wish that there had been more. All benefited from the education experience.

In addition, there was also the opportunity to renew old friendships and develop new ones. We participated in a lively auction to benefit Angel Kiss, the local charitable organization selected by NATP for support by this conference. The Angel Kiss Foundation is dedicated to helping all families of children with cancer in Northern Nevada and the Eastern Sierra by providing immediate and continuing financial assistance and emotional support.

We also participated in the Chapter Showcase where we had some giveaways and a raffle of a Buxton laptop case, two pounds of Dunkin' Donuts coffee

and a Boston Red Sox cap and tee shirt. The raffle generated \$149 which we donated to Angel Kiss.

From a social point of view many state chapters had arranged a luncheon for their members in attendance. To build camaraderie and have some fun at the same time, we had an evening of bowling, pizza and refreshments. We each bowled two strings of "ten pins." Some did well and some did not do as well (let me see, what did I do with that score sheet?), but one thing for sure is that we all had a great time! Thanks to Ann Sapelli for making those arrangements.

I encourage you to go to the NATP website and read the blog about the conference. You will also find some pieces about the various speakers from the IRS and get the inside scoop on what is happening from e-filing to new hires. There are pictures from the conference including one of our Chapter Showcase table with Nina, Chris and Joan.

So, what now? It is time to start planning for next year's conference at Austin, TX on July 18-23, 2010. Make a commitment now to attend and

see for yourself how great an annual conference can be. In the meantime, come to our annual meeting/seminar on October 22, 2009 at the Holiday Inn in Mansfield, and our annual state tax update seminar on January 7, 2010 in Sturbridge. Program description and a registration form are included in this newsletter.

Since the October annual meeting will include elections for expiring terms on our Board of Directors. See the report of the nominating committee elsewhere in this newsletter. We will also be voting on proposed by-law changes which will allow Rhode Island NATP members to become members of our state chapter. Be sure to read about these proposed changes elsewhere in this newsletter.

Become active in your state chapter; you will get more out of it than you put in. To learn more, please contact our Secretary, Jeff Schweitzer.



Joe Gniadek

Chapter Board of Directors

Region 1 (Berkshire, Franklin Hampshire and Hampden)

June H. Masee, EA

413-562-9676 (voice)

413-562-9723 (fax)

jmassee@moneyconcepts.com

Christine M. Miarecki, EA, Vice President

413-283-9407 (voice)

413-283-6866 (fax)

cmiarecki@comcast.net

David T. Royce

413-267-9590 (voice)

413-267-0000 (fax)

roycedp@comcast.net

Region 2 (Worcester and Middlesex)

Dorothy Dimo, Treasurer

413-436-5249 (voice)

412-436-5249 (fax)

dimund@comcast.net

Pamela Marcinowski, EA

978-355-2210 (voice)

978-355-2047 (fax)

nmarcinowski@yahoo.com

David L. Johnson, EA, ATA

508-853-9638 (voice)

508-852-0422 (fax)

dejayEA@aol.com

Region 3 (Essex, Suffolk and Norfolk)

Jeffrey N. Schweitzer, CEP, ATP, Secretary

781-440-6655ext.14 (voice)

781-440-6665 (fax)

jeff@nfsnet.com

William F. Delaney, EA, ATA

781-551-9252 (voice)

781-551-9430 (fax)

billdelaneyEA@verizon.net

Margaret R. Baldassari, ATP

508-668-4494 (voice)

508-668-4114 (fax)

baldassari@earthlink.net

Region 4 (Bristol, Plymouth, Dukes, Barnstable and Nantucket)

Joseph F. Gniadek, EA, President

508-747-1456 (voice)

508-747-1523 (fax)

jgniadek@msn.com

Kenneth P. Maloof, EA, ATA

508-238-2538 (voice)

508-230-2535 (fax)

Kmaloof@Mail.com

Stephen J. Garvey, CPA

781-878-4381 (voice)

781-871-1817 (fax)

huma252@juno.com

At Large Region

James P. Haesaert

413-533-8801 (voice)

413-303-9917 (fax)

deftgecko@yahoo.com

“It’s Not What You Earn—It’s What You Keep!”

LEADERSHIP MEETING IN RENO AT NATIONAL CONFERENCE

Prior to the start of the annual conference, there was a meeting of the state leadership teams. We were represented by Joe Gniadek (Pres.), Chris Miarecki (VP) and Nina Marcinowski (Education Chair). At this meeting we learned about changes coming down the pike regarding the National office, and how well NATP has grown.

We also learned from discussions with the National staff that the primary thing state members are looking for is information about state tax changes. We already

have a newsletter editor, Bill Delaney, who is always thinking about how we can inform you about state tax law changes and other recent developments. To help him, we have teamed up with National and subscribed to StateNet, a service which monitors proposed legislation in all states. “We” cover all of the NE states and also NY. Bill takes this information and includes it in newsletter articles. We have received several compliments from National regarding our newsletter content.

Contact our Secretary, Jeff Schweitzer, if you have or would like to write an article for our newsletter.



MASSACHUSETTS NEWS—Strippers Prevail! Performers are NOT Independent Contractors

Only in Massachusetts would an employer at a strip joint argue that the performers were independent contractors who “provided entertainment akin to televisions and pool tables at a sports bar.”* This argument was offered by the defendant, King Arthur’s Lounge, in a class action suit filed by Lucienne Chaves, a former performer at the club. In response, Suffolk Superior Court Judge Frances A. McIntyre observed: “A court would need to be blind to human instinct to decide that live nude entertainment was equivalent to the wallpaper of routinely-televised matches, games, tournaments, and sports talk in such a place... The dancing is an integral part of King Arthur’s business.”

Judge McIntyre ruled that the plaintiff’s were incorrectly classified as independent contractors and, instead, meet the definition of an employee under Massachusetts law. This newsletter published an explanation of the updated Mass. Independent Contractor Law in our June, 2005 issue. For your convenience, the article may be accessed on our state web site. You can also download a copy of the statute by going to www.mass.gov/legis/laws/mgl/149-148b.htm.

“The law creates a presumption that there is an employer-employee relationship, which can only be overcome if the relationship passes a three factor test.” (2004 Advisory issued by the Massachusetts Attorney

General). The second factor, which goes to the heart of Judge McIntyre’s decision is: The service provided must be outside the employer’s usual course of business.

The attorney for the defendant employer commented: “This was a case where the judge was saddled with a Massachusetts law that makes it an outlier with respect to the rest of the country.” Your editor reached for his ever-present dictionary and found **outlier**: A part lying without or beyond the main body. If Massachusetts is in the lead, will other states follow? Reference; Mass. General Law, Ch. 149, Sec. 148B. *Excerpted from an article in the Boston Globe, August 11, 2009.

NOT A DEPENDENT ON THE FEDERAL RETURN BUT QUALIFIES AS A DEPENDENT ON THE MASSACHUSETTS RETURN???

Hey, wait a minute, how can this be? As NATP MA chapter member Mark Goldberg called to your editor’s attention, here is an interesting example:

IRC Reg. Sec. 1.25A-1(f)(1) allows a tuition credit to either the student [if NOT claimed by the parent(s)] or by the parent(s) who may claim the child. Under federal law, an otherwise eligible parent(s) may forego claiming the child as a dependent, thereby freeing the child to claim the credit. We are all

aware of this sometimes useful planning technique.

What your editor did not know until Mark pointed it out is that MA asks only that the dependent claimed meet the federal IRC Section 152 definition. It is immaterial whether or not the dependent was CLAIMED on the federal return. See also MGL Chapter 62, Sec. 3 B.(a)(8) and Sec. B.(b)(3). So, you may forego the dependent exemption on the federal return but still claim it on the state return.

The MA Form 1 instructions for 2008 (page 9) have a further explanation under line 2b Note: “Under federal law, there are additional restrictions on the dependent exemption beyond the rules of sec. 152 *that are not adopted by Massachusetts* (emphasis added). For Massachusetts tax purposes, if an individual qualifies as a dependent under the rules of sec. 152, you can claim a dependent exemption for such person.”

UPDATE ON FINANCIAL STATEMENT REQUIREMENTS FOR MA PUBLIC CHARITIES

“A public charity...which received more than \$200,000 in gross support and revenue during the fiscal year covered by its report must submit a complete audited financial statement together with its annual report...The audited financial statement shall be prepared in accordance with such generally accepted accounting principles and reporting practices as may from time to time be prescribed by the American Institute of Certified Public Accountants, or its successor organization, and shall be examined by an independent certified public accountant...for the purpose of expressing an opinion thereon. A public charity which received not more

than \$500,000 in gross support and revenue...may in lieu of an audited financial statement submit a financial statement accompanied by an independent certified public accountant’s review report (emphasis added)...” MGL, Ch. 12, Sec. 8F, second para., as amended effective January 1, 2008.

Under prior law, an audited financial statement (or a review financial statement in lieu of) was required when gross support and revenue exceeded \$100,000. This little publicized change will allow many small public charities to avoid the need for a relatively costly review finan-

cial statement. Instead, the Mass. PC form may be filed without a financial statement attachment.

As in prior law “This section shall not apply to any property held for any religious purpose by any public charity, incorporated or unincorporated.” The religious organization exemption from filing remains alive and well.

HELLO FROM NINA

My name is Nina Marcinowski and I am a member of our MA chapter Board of Directors. I attended the NATP annual conference for the first time this year, and was very pleased with my experience. It was full of education. I took all 33 continuing education credits offered, and they had great speakers. Every Fall I have attended a two-day 1040 and state update, and the MA chapter workshops, but the national con-

ference offers much more. The topics covered were basic to intermediate and ranged from dependents, form 4797, audits, passive activities and more. The instruction was offered in various styles, with a booklet and handouts provided for later reference.

The conference is a good place to get to know more professionals from around the country. On Monday night, all of the first-time attendees were invited to a wine and

cheese reception. It was fun and I met people I might not have met otherwise. We had a bowling night with the MA attendees and had a great time. The speakers were available to answer questions and exchange e-mail addresses for subsequent follow-up. Hope to see you at next year's conference in Austin, TX

Nominations Committee

In accordance with Article IV, Section 4 of the association by-laws, the nominating committee hereby submits the following names of members in good standing for vacancies on the Board of Directors as of January 1, 2010:

Region 1 – June H. Masee, EA

Region 2 – Dorothy Dimo

Region 3 – Kenneth P. Maloof, EA, ATA

Region 4- Margaret R. Baldassari, ATP

At Large – Virginia Lee Arlington DeLuca

Respectfully submitted,

Stephen Garvey, Accord MA - Chair

Bernice Begley, Palmer MA - Member

Deborah Toomey, Chester MA - Member

Upcoming Seminars & Education

MASSACHUSETTS CHAPTER EVENTS

October 22nd, 2009

Annual Meeting & Seminar

Holiday Inn—Mansfield MA

(See Registration Form in this Newsletter)

January 7th, 2010

MA/RI State Update Seminar

Sturbridge Host—Sturbridge MA

MASS BOARD OF DIRECTOR MEETINGS

October 22nd, 2009—Mansfield, MA

November 12th, 2009—Spencer, MA

AREA NATIONAL NATP 1040 UPDATE WORKSHOPS

October 26th & 27th

Sheraton Airport—Warwick, RI

November 2nd & 3rd

Hilton Garden—Freeport, ME

November 4th & 5th

Holiday Inn—Concord, NH

November 16th & 17th

Four Points—Leominster, MA

November 18th & 19th

Holiday Inn—Holyoke, MA

November 30th & December 1st

Sheraton Colonial—Wakefield, MA

December 4th & 5th

Radisson—Plymouth, MA

UPCOMING NATP NATIONAL CONFERENCE & EXPO DATES

July 19th-22nd, 2010

Hilton—Austin, TX

August 15th-a8th, 2011

Hyatt Regency Riverfront—St. Louis, MO

There are many other educational opportunities available through NATP's website including Live Workshops, Self-Study Courses and Webinars On-Demand. Visit www.natptax.com for more info or to register.

(Register Online at www.natptax.com)



Mary Mellem instructing at our Seminar

**Massachusetts Chapter – National Association of Tax
Professionals**

Fall Seminar and Chapter Annual Meeting Agenda

October 22, 2009

**Early Registration Special “2 for 1” - Member with Free Non-Member Guest
Registrations Received by 10/10/09 Only for “Special”
Limited Seating to First 100 Registrants**

**Holiday Inn Mansfield – 31 Hampshire St. – Mansfield, MA 02048
Route 140 Exit off Route 95 – 508-339-2200**

-----TOPICS (8 hrs. CPE)-----

- | | |
|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7:00-7:45 AM | REGISTRATION |
| 7:45-8:00 AM | INTRODUCTION Joseph Gniadek, Pres.
Jimmie Capps, NATP National Representative |
| 8:00-9:45 AM | Cancellation of Debt, Bankruptcy, form 982, and Foreclosure for Individual Taxpayers Presented by David Mellem EA |
| 9:45-10:00 AM | BREAK |
| 10:00-12:00 PM | Continuation of Cancellation of Debt, and First Time Homebuyer's Credit Presented by David Mellem EA |
| 12:00-1:15PM | LUNCH AND ANNUAL MEETING |
| 1:15-3:00 PM | Representing Businesses and Individuals before the IRS Presented by Morris Robinson Esq. LLM and Invited Speakers: Christopher Beck, Esq., LLM, Jon S. Barooshian Esq., Joanne Betts-MacDonald, IRS Appeals Team, Betsy J. Fallacaro, Chief Taxpayer Advocate Service, Daniel Field Esq., Matthew McLaughlin, IRS Appeals Team Manager, Robert H. Nelson, Acting Administrator NE Region US Small Business Administration, Adam J. Ruttenberg, Esq. Final roster can be found on www.masstaxlawyers.com and at www.natptax.com/ma . Also, look at the electronic version of this newsletter which includes more details regarding the afternoon presentation. |
| 3:00-3:15PM | BREAK |
| 3:15-5:15 PM | Continuation of Federal Audit Issues |

Continental Breakfast, Breaks, and Luncheon included in registration fee.

COMPLETE REGISTRATION FORM ON REVERSE SIDE

Mail your registration form and check to:
Nina Marcinowski, PO Box 136, Barre, MA 01005-0136

**“2 for 1 “Special Registrations Must Be Received by 10/10/09
All Registrations Limited to First 100 Registrants**

Name _____

Address _____ City _____

State _____ ZIP _____

Tel _____ email _____

Second Name if Two for One Attendee

Name _____

Address _____ City _____

State _____ ZIP _____

Tel _____ email _____

If payment received on or before 10/10/09 _____ Member \$115.00*

_____ Non-Member \$135.00

If payment received after 10/10/09 _____ Member \$135.00*

_____ Non-Member \$145.00

email _____

*This rate applies to both MA and RI NATP members.

NATP Membership No. _____

All cancellations must be in writing and postmarked on or before Oct. 20, 2009 to receive a refund, less \$15.00 processing fee. No refunds after Oct. 20, 2009.

Make check payable to MA Chapter NATP. This form may be reproduced.

Please use a separate form for each paying registrant. Thank You

Original

BYLAWS OF THE MASSACHUSETTS CHAPTER OF NATIONAL ASSOCIATION OF TAX PROFESSIONALS

ARTICLE I

Name

The name of this Association shall be the Massachusetts Chapter of the National Association of Tax Professionals (the National Association is hereinafter NATP and the Chapter hereinafter Association). The principal office of the Association shall be (the address of the Association President's primary residence or primary business address within the Commonwealth of Massachusetts). The principal office, and other offices as established by the Board of Directors, shall exist for the purposes described herein and in the Association Articles of Incorporation.

ARTICLE IV

The Board of Directors

Section 2. Board composition and term. The Board of Directors shall be composed of the President, Vice-President, Secretary, Treasurer, and nine (9) other eligible Association members. The number of voting Board of Director members shall be fixed at thirteen (13). Board members shall serve three-year terms that begin January 1 immediately following their election. Board member terms shall be staggered such that no more than five (5) will end in a year.

Section 3. Geographical Regions. In order to provide reasonable representation on (replace with the word "from"?) the Board of Directors to members throughout the state, the state shall be divided into the following four (4) geographical regions: Region 1 - Berkshire, Franklin, Hampshire & Hampden Counties; Region 2 - Worcester & Middlesex Counties; Region 3 - Essex, Suffolk & Norfolk Counties; Region 4 - Bristol, Plymouth, Barnstable, Dukes & Nantucket Counties. The number of Directors shall be comprised of three (3) eligible Association members per region, for a total of twelve (12). In order to be eligible, a Director must be a resident of the region he/she is representing. In addition, there shall be one (1) Director "at large" who may be a resident of any region.

Note:

Region 1 - Berkshire was misspelled on original bylaws and has been corrected with these updates.

Amended (as proposed)

BYLAWS OF THE MASSACHUSETTS / RHODE ISLAND CHAPTER OF THE NATIONAL ASSOCIATION OF TAX PROFESSIONALS

Article I

Name

The name of this association shall be the Massachusetts / Rhode Island Chapter of the National Association of Tax Professionals (the National Association is hereinafter NATP and the Chapter hereinafter Association). The principal office of the Association shall be the address of the Association President's primary residence or primary business address within the Commonwealth of Massachusetts or State of Rhode Island. The principal office, and other offices as established by the Board of Directors, shall exist for the purposes described herein and in the Association Articles of Incorporation.

Article IV

Section 2. Board composition and term. The Board of Directors shall be composed of the President, Vice-President, Secretary, Treasurer, and eleven (11) other eligible Association members. The number of voting Board of Director members shall be fixed at fifteen (15). Board members shall serve three-year terms that begin January 1 immediately following their election. Board member terms shall be staggered such that no more than six (6) will end in a year.

Section 3. Geographical Regions. In order to provide reasonable representation from the Board of Directors to its members throughout Massachusetts and Rhode Island (hereinafter states), The states shall be divided into the following five (5) geographical regions: Region 1 - Berkshire, Franklin, Hampshire & Hampden Massachusetts counties; Region 2 - Worcester & Middlesex Massachusetts counties; Region 3 - Essex, Suffolk & Norfolk Massachusetts counties; Region 4 - Bristol, Plymouth, Barnstable, Dukes & Nantucket Massachusetts counties; Region 5 - Bristol, Kent, Newport, Providence & Washington Rhode Island counties. {The number of Directors shall be comprised as follows: three (3) eligible Association members from each of Regions 1, 2, 3 & 4 and two (2) eligible Association members from Region 5 for a total of fourteen (14). In order to be eligible, a Director shall be a resident of the region he/she is representing. In addition, there shall be one (1) Director "at large" who shall be a resident of any region. }

The above proposed changes will be submitted for membership approval at the annual meeting on October 22, 2009, and have been referenced in the President's message.

WELCOME TO OUR NEW AND RECENTLY REINSTATED NATP MEMBERS

Manuel Belliard—Roslindale MA

Mark Ledoux—Leominster MA

Michael Berardi—Canton MA

Marie Lordan—W Bridgewater MA

Paul Fitzpatrick—Taunton MA

Richard Norian—Rockland MA

Deborah Ghioni—Feeding Hills MA

Ayodele Oluboje—Roslindale MA

Sheryl Goguen—Leominster MA

Margaret O'Neil—Stoughton MA

Shaun Kerwood—Pittsfield MA

Mary White—Brockton MA

Sulzan Yanoul—Feeding Hills MA

Members of NATP are automatically members of our state chapter—WELCOME!!

WELCOME!!

Massachusetts



MASS COMMUNICATIONS

Office of the Editor
35 Reservoir Road
Westwood, MA 02090-3123

Visit us on the Web!

www.natptax.com/ma.html