

## PRESIDENT'S MESSAGE



**WELCOME BACK** from an exciting, eventful and interesting Tax Season. I hope you all are well and relaxed by now.

Our Chapter has been busy finalizing our Education Seminars for the rest of 2015.

### HIGHLIGHTS:

- **June 11 (Thursday)** - Mortgage Interest/Reverse Mortgage, during this half day event you will learn the Nuts and Bolts of Home Mortgage Interest & Strategies on Refinances with a focus on Reverse Mortgages.
- **September 30 (Wednesday)** - Two hour evening event featuring Social Security and other government benefits.
- **October 1 (Thursday)** - Federal Tax Day with NJ Annual Conference and Charity Auction: Featuring Kathryn Keane, EA as the seminar presenter. Ms. Keane will discuss Affordable Health Care (ACA) updates, Form 3115 and rule changes to the Repair Regulations, Net Operating Losses and Ethics (Circular 230). There are eight hours of solid CE offered to help you keep current.
- **October 29 (Thursday)** - Representation, a day with an IRS Taxpayer Advocate Staff Member, a former IRS Revenue Officer (Collection) and an Attorney. You will gain insight on what to do when your client receives that dreaded IRS Letter.
- **December 10 (Thursday)** - Identity Theft/IRS Verification Letters, you learn what to do when your tax client experiences identity theft. Start your morning with this informative half day event featuring IRS speakers.
- **January 9 (Saturday)** - Our Famous NJ State Tax Seminar, Kathryn Keane, EA will provide you with the latest updates in NJ and NY taxation.

Our Chapter's events are held at the Hotel Woodbridge Metro Park, in Iselin, NJ. For more information and to Register, log on to the National Website: <http://natptax.com/Chapters/Pages/NewJerseyChapterEducation.aspx> or contact our Chapter Vice President, Linda Giordano EA, [lgtax1@yahoo.com](mailto:lgtax1@yahoo.com). You may also "like" us on facebook®: <https://www.facebook.com/groups/NJNATP/>.

### NATP NATIONAL CONFERENCE & EXPO:

This year's Conference is in The Big Easy, New Orleans, from July 20 until 23. It's a four day mega-event where you can earn up to 28 CE's. The Conference features NATP quality speakers on a variety of courses. Expo Hall will be filled with Sponsors and Exhibitors for your Tax and Financial needs. The Conference will also provide you with the opportunity to network with other tax professionals, like yourself, from around the country. There are also fun events, such as, the NATP Charity Auction, Chapter Showcase and a Banquet Gala Event to round out the week. The Louisiana Chapter, the Conference host, is providing a Mississippi River Cruise on the stern wheeler steamboat Natchez, featuring a creole

dinner buffet, cash bar and live jazz. You can register at National's Website - [natptax.com/conference](http://natptax.com/conference).

The New Jersey Chapter will be hosting a complimentary lunch for our members at the Conference, on Monday, July 20th.

### NATP 2015 TAX FORUMS & EXPO:

National will hold their Tax Forum this year, at the Marriott Downtown Hotel on September 3- 4 in Philadelphia, PA. At this two day event, you can earn 16 CE's. For more information and to register, go to the National Website: [natptax.com/forums](http://natptax.com/forums) or call 800-558-3402, ext. 3.

Your New Jersey Chapter will have a Booth full of New Jersey Tax information and goodies at the Philadelphia Forum. Please come out for two days of great education and meet with your Board Members.

### OTHER NOTES:

You should have received our yellow and green postcard schedule this May. Please put the postcard on your bulletin board. Mark your calendars now for our 2015 seminars.

Besides presenting our well known Educational events to you, the NJ Chapter holds multiple charitable events during the year. Members have supported the NJ Valerie Fund through direct contributions as well as our NJNATP Charity Auction. We also collect box tops in support of the Midland School. The Midland School's programs assist special needs children and young adults. Many members continue to support our NJNATP Campership Program for Special Needs Scouts. We applaud you for your past contributions and support and hope you will continue your generosity.

Our Scholarship Program continues to thrive. We had many applications over the last few years. Choosing just one Scholarship winner each year is a daunting task. All candidates show distinguished credentials. The selection process is always difficult; yet there can be only one person who will win the award per category. Thank you to all our members who continue to tell their clients, friends and neighbors about our program.

The NJNATP Board is available to answer your questions and concerns year-round. Please remember to ask us for assistance. At the national level, please use the research available as well as the tools and worksheets you can find on the website ([www.natptax.com](http://www.natptax.com)). NJNATP also has a website with helpful links and a list of NJ volunteers to answer NJ questions ([www.njnatp.com](http://www.njnatp.com)). Last, but not least, is our own NJ-NATP facebook® page, join in on the discussions among fellow NJ preparers. Watch for further updates and announcements in Chapter News.

**Best wishes to everyone. I hope to see you at our Seminars, National Conference and Tax Forum.**

**Mario Tripaldi, EA, MST**  
 NJ Chapter President

## A NOTE FROM THE EDITOR

BY MARC STANDIG

Your New Jersey Chapter of the National Association of Tax Professionals hopes you enjoy this summer edition of *NJ Taxing Times*. We are continuing the tradition of excellent articles for our members' enjoyment and professional growth. We also need your help. Please consider writing about something you think should be in your newsletter. That's right, your newsletter. This is all written, reviewed, printed and distributed for you. If you do send something in to be published, please make sure it is about the profession of tax return preparation or representation. The topics may include nuts and bolts type of articles, practice management ideas, editorials (rants) and just about anything you can think of in our field. We will read and consider putting your ideas within your newsletter. We need your help to keep the newsletter fresh and alive.

If you do take up the challenge and put something together, please DO NOT mention anything that is client specific. Please proofread your article prior to sending it in for publication. You need to know there is no compensation for contributing and publishing your article. After all, it is a contribution. You will benefit through the fact that you will have been heard by other members within your organization. We are standing by in anticipation of receiving your article. *What are you waiting for? Need some ideas?* Check out the [www.njnatp.com](http://www.njnatp.com) or the NJ-NATP facebook® discussions. Get inspired! There's got to be something you would have liked to have seen in this newsletter. Go ahead and write it!

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# Preparing Tax Returns for Aging Americans

BY MARC STANDIG

WHEN WE WORK WITH THE AGED and the very old tax clientele, we need to pay attention to some of their needs as well as we must be careful not to expose ourselves to additional liability. Many of the older people that are our tax customers may have slightly impaired hearing. According to the National Instituted of Health, one in three adults between the ages of 65 and 75 and one half of the adults over the age of 75 have difficulty hearing. These individuals may be embarrassed about their difficulty and simply nod or ask you to speak up from time to time. In fact, they may not hear what you are saying. When addressing this segment of your clientele, be sure to make eye contact and speak slowly. Ask questions that require a detailed answer in order to engage these individuals. Questions that ask for a yes or no answer will get a yes or no answer, but the comprehension of your discussion may have been lost due to lack of hearing. In addition to difficulty hearing, some of these clients may have difficulty with their eye sight.

The National Institutes of Health lists Age Related Eye Diseases (ARED) as Macular Degeneration, Cataracts, Diabetic Eye Disease, Glaucoma and Dry Eye. Make sure you have adequate lighting in your office. Keep a handful of reading glasses near where your tax clientele usually sits. Sometimes your customers may forget to bring their reading glasses. Sometimes they bring the wrong glasses. If you keep reading glasses nearby, your older clients will not feel so bad when they realize

they don't have their own glasses with them. When they see you have a supply available to borrow during the appointment, they will realize that other people may face the same challenges and will make use of your glasses to help them navigate the process of reviewing their documents. Whatever you do, DO NOT MAKE OUT THE CHECK for your clients. Although you may view this as relatively harmless, there could be issues with surviving family members later. Keep thick pens with nonslip grips in your drawer for your clients to use. Your older clientele will appreciate a pen that is easy for them to handle and does not aggravate their arthritis. If you wish to read more about aging and health issues, go to [www.nih.gov](http://www.nih.gov) and click around the site. Be patient with your older clients. If you are lucky, you also may get a chance to grow old one day.

Several of my older clients have voluntarily delivered their power of attorney forms to me. Typically they have announced that I may need to reach one of their adult children and want me to be able to talk freely to their child with the Power of Attorney. You may also wish to execute a Section 7216 disclosure as well. This may be a suspenders and belt reaction, but it is usually safer for the practitioner to have too much permission documentation than not enough on file.

You may have already read Jaimee Hammer's article about the NJ-NATP facebook® page. Please feel free to share your thoughts about Working with Aging Americans.

## Christie Administration Extends Filing Deadline for 2014 Senior Freeze Program

**TRENTON** – Governor Chris Christie has provided additional time for senior and disabled residents to access property tax relief benefits by extending the filing deadline for applications for the 2014 Senior Freeze (Property Tax Reimbursement Program) to October 15, 2015. The original due date for 2014 Senior Freeze applications was June 1, 2015.

The Division plans to mail reimbursement checks to eligible seniors and disabled residents who file their 2014 applications by the original June 1 deadline in mid-July. Checks for eligible applicants who file 2014 applications after June 1 will be processed and delivered as quickly as possible thereafter.

Information about the Senior Freeze Program, including the eligibility requirements, is available on the Division of Taxation's website at:

[www.state.nj.us/treasury/taxation/ptr/index.shtml](http://www.state.nj.us/treasury/taxation/ptr/index.shtml).

## TAX TIP OF THE QUARTER

### SUMMER 2015

BY MARILYN H. AYERS CPA

IN APRIL, NJ released the Winter 2014/2015 edition of New Jersey State Tax News. There were two items that caught my attention – New Laws for EFT Payments That Fail and Sales and Use Tax Crowdfunding.

In case you missed it, NJ passed new legislation last fall amending the existing civil and criminal statutes that deal with failed electronic funds transfer (EFT) payments to treat these payments the same way as bad checks, drafts or money orders. This means that a taxpayer commits a crime if they authorize an electronic fund transfer knowing that the payment will bounce because of insufficient funds to make the payment.

I read this with interest because in my office we initiate those EFT payments for NJ GIT, NJ 927 and NJ Sales and Use tax. I believe I need to change my office procedures to be sure to ask that there are sufficient funds to make those payments before I initiate that payment. Hopefully, that will help protect me and my staff, as well as my client, from those penalties.

The second article that caught my attention was the discussion of donations made through a crowdfunding website related to sales and use tax. It caught my attention because I had a client during tax season that used crowdfunding to start up his business. Crowdfunding websites are used by filmmakers, musicians, authors and others to solicit donations for their projects. The example NJ provides is an author located in New Jersey who wants to raise money to publish a book and agrees to provide a copy of the finished book to the contributor in return for a \$10 donation to the project.

The New Jersey Sales and Use Tax Act requires the collection of the tax on the retail sale of tangible personal property unless an exemption exists. Per the article: "The Division concluded that there is no "retail sale" of tangible personal property when a donation is made through a crowdfunding website." So in the example they provided, the \$10 donation to the author is not subject to sales or use tax. However, the article goes on further to state that the author is required to pay either sales or use tax on the books given to the contributors. So a double edged sword!

I believe that we will see more of our small start-up companies using "crowdfunding" in the future and we need to be prepared. Hopefully, the client will give away T-shirts and we won't have to worry about the sales tax on either side!

*Marilyn H. Ayers, CPA, is immediate Past President of NJ-NATP.*

# YOU CAN'T MAKE THIS STUFF UP!

BY ROBERT D. FLACH

**AFTER 44 TAX SEASONS** of preparing 1040s for the masses I thought I had heard everything. But I was wrong.

A client, a widower who was filing his 2014 return as a Single taxpayer for the first time after the passing of his wife in 2013, sent his 2014 Form 1040 to the IRS on Feb.7th requesting a refund. No refund ever came. Finally on April 25th he received a letter from the IRS saying that they had received the return but were unable to process the refund. The letter explained –

*"Our records indicate that the person identified as the primary taxpayer or spouse on the tax return was deceased prior to the tax year shown on the tax form. Our records are based on the information received from the Social Security Administration. Based on this information, the tax account for the individual has been locked."*

The IRS was writing to the taxpayer to tell him that he is dead and so they were not going to process his refund.

It was, however, his spouse – certainly not "the primary taxpayer" on the 2014 tax return – who was deceased prior to 2014 and not the taxpayer.

A contact number was provided in the letter. I told the client to call the number and tell the IRS he was not dead.

The client was instructed to go to the local Social Security office and get a letter stating that he was alive. Once the Social Security clerk stopped laughing he prepared the letter and give it to my client. He sent the letter to the IRS along with a copy of the 1040 and photocopies of his driver's license and Social Security card a month ago. As of this writing he has still not received his refund.

Earlier I had learned that the IRS had held up the refund of a client's unmarried college student son because an injured spouse form was attached to the son's documents and his return was forwarded to the department that processes injured spouse claims. Where the injured spouse form came from is anyone's guess. Certainly not from me or the taxpayer. The refund was finally received in late May.

I knew that taxpayer service had suffered as a result of the IRS budget cuts – but this is ridiculous.

I have heard from more clients about excessively delayed federal refunds this past tax season than any other season. In the past I have rarely been contacted about delayed federal or state refunds. Unfortunately, once the completed return has been sent to the IRS, or state agency, there is nothing I can do to expedite a refund. The client must go to the IRS website, or the state tax department website, and use the appropriate "Where's My Refund" tool to discover the status and follow any instructions provided.

I have not heard from any of my clients about delayed NJ state refunds, but I have read complaints from other NJ-NATP members online at the NJ-NATP facebook® group.

I do know that both the IRS and the State of NJ are taking longer to process refunds to try to prevent identity theft and other forms of tax fraud. And this is a good thing. Delaying refunds a week or even two to assure proper matching of income and withholding information is a good trade-off. But the above discussed delays have had nothing to do with additional processing time – they are just IRS goofs.

I hope the IRS will get properly funded in the future, and the IRS management will properly allocate its limited resources to correctly processing tax returns.

*{Northeast PA resident Robert D. Flach has been preparing 1040s since 1972, and has been a member of NATP since 1987 (and an original founding member of the NJ chapter). He writes the free online monthly newsletter THE TAX PROFESSIONAL (<http://thetaxprofessional.webs.com>), the popular tax blog THE WANDERING TAX PRO (<http://wanderingtaxpro.blogspot.com>) and for the MAINSTREET portal at <http://www.mainstreet.com/taxes>. He has also created the website FIND A TAX PROFESSIONAL (<http://www.findataxprofessional.com>) }*

# NATP'S CHARITY AT NATIONAL CONFERENCE IN NEW ORLEANS

BY JEAN MILLERCHIP, EA, CFP®

**AS YOU KNOW**, each year a charity is selected in the city that is hosting National Conference, and this year that city is New Orleans. The charity selected this year is Café Reconcile.

Café Reconcile is a nonprofit restaurant, located in the severely distressed Central City neighborhood of New Orleans. It serves as the primary training ground for students seeking to acquire skills in the food service industry. Featuring soul-filled local dishes and some of the city's lowest prices, Café Reconcile is a destination lunch spot for a wide cross-section of New Orleansians as well as visitors from all across the country.

Their mission statement tells us that they are a community of concerned people committed to addressing the system of generational poverty, violence and neglect in the New Orleans area. Café Reconcile transforms the lives of young adults (ages 16-22) and the community through the ministry of reconciliation, assisting these young people to make positive changes in their lives. Reconcile's students arrive facing a vast array of challenges, from extreme poverty to homelessness, violence and participation in the juvenile justice system. However, in spite of it all, these young people possess a deep desire to break the cycle and become productive and contributing members of society.

Café Reconcile works to make the lives of these young people whole, and help pursue a shared vision of hope and prosperity for all people.

As always, NATP has chosen a most worthwhile charity, and we certainly hope, through the donations from our Charity Auction, Chapter contributions during Chapter Showcase, and individual donations from our generous NATP members and attendees at Conference, that we can present this charity with a very deserving check on the evening of our Banquet.

*Jean Millerchip is the President of NATP and has served as the President of the New Jersey Chapter in the past.*

**CHARITY ALERT** The New Jersey Chapter of the National Association of Tax Professionals will be having its famous Charity Auction at the Chapter's annual meeting on October 1st. We need items to auction off! Please consider participating as a buyer or supplier or both! The proceeds will be going to benefit the Valerie Fund ([www.thevaleriefund.com](http://www.thevaleriefund.com)) If you are going to donate something to the auction, please let the NJ-NATP Board Member representing your Region know that you will be participating.

## NJ NATP WEBSITE NEWS

BY TOM WATKINS

**HELLO TAX FANS....**Have you seen our updated website? The New Jersey Chapter of NATP has a full featured website and the address is **[www.NJNATP.com](http://www.NJNATP.com)**.

Our website is filled with knowledge to help the NJ practitioner. From seminar information to newsletters to New Jersey Division of Taxation News, our website has the information needed to help our members. It also contains contact, scholarship and community information to help keep you informed of what is happening.

**BUT...**We are always looking for new ways to help members so please take a look at it today and let us know what you think. Please send us an email at **[njnntp@gmail.com](mailto:njnntp@gmail.com)**.

# Elections

BY MARILYN H. AYERS CPA

**I CAME ACROSS AN ARTICLE** not too long ago on the internet when I was doing some research for our June 2015 seminar, “The Nuts and Bolts of Mortgage Interest Deductions and Reverse Mortgages”. It was entitled “Don’t Neglect to Elect”. I thought it was catchy and a really good reminder that there are many responsibilities of today’s tax preparer that goes beyond making sure that we report all the income and expenses on the correct line of the 1040 tax return.

What sets a good tax preparer apart from the rest and certainly from TurboTax® is assisting a client in making elections that will produce better tax results. Some of these elections are automatic and require no attachments or additional paperwork on our clients returns. As tax professionals we forget that these items are truly elections. I think we take the following examples for granted and don’t think of them for what they are, “Elections”. Electing a fiscal year for an estate filing its initial return, electing to include savings bond interest on all savings bonds owned by a decedent on the decedent’s final return or a surviving spouse’s election to treat their deceased spouse’s traditional or Roth IRA as their own are all types of “automatic” elections that need no special forms or documentation.

The 2014 tax season introduced us to a few new elections because of the Repair Regulations. Those elections were not automatic and did require an actual attachment to the tax return. We had to elect to use the De Minimis safe harbor, to elect to capitalize repair and maintenance costs or to elect the Safe Harbor for small taxpayers. There are a few other elections that require documentation that I often overlook.

For instance, there is the 10-T Election (26CFR 1.163-10T). It is an election to treat debt secured by a home as not secured by a home. A good example of this is an equity loan secured by a taxpayer’s residence but used to purchase equipment for the taxpayer’s business. This may allow a greater deduction for interest on other debts that are only deductible as home mortgage interest. The IRS gives no specific format for the 10-T election. But it is recommended that it be made in writing, attached to the return for the initial election year.

Another election often overlooked is Election E909 – Spousal Joint Venture Election out of Partnership Treatment. This election is used when a qualified joint venture is conducted by a husband and wife who file a joint return for the tax year. The joint venture is not treated as a partnership for federal income tax purposes if the husband and wife elect out of partnership treatment. This is used most often in a rental property owned by a husband and wife. We mark the rental income as joint in our tax software but forget to attach the E909 Election. If you would like to see a more in depth discussion, please go to the IRS website:

<http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Election-for-Husband-and-Wife-Unincorporated-Businesses>.

There are usually some elections built into our software and PPC Checkpoint’s 1040 Deskbook has a whole list of elections and whether or not they are made with or without separate statements attached to the tax return. I use the list often. So *“Don’t forget to Elect”!*

## Are you a member of the NJ-NATP facebook® group? No? WHY NOT?

### *Am I allowed to join?*

Any member of NATP can join.

### *Do I have to join facebook@?*

Yes, that is a requirement.

### *What am I missing by not joining?*

- A sense of community with your fellow NATP members.
- A learning experience. You can post a question to get feedback from your NATP community. You can just sit back and read what others have asked and answered. You can help by responding to someone else’s pondering.
- Upcoming chapter events are posted and updated.
- Members joke around with cartoons, etc.
- Members share relevant news in our industry and interesting articles.

***So, what are you waiting for???????????***

## ATTENTION all NJ Members:

**OUR NJ CHAPTER WILL HOLD  
ELECTIONS FOR OUR  
BOARD OF DIRECTORS  
AT OUR ANNUAL CONFERENCE ON  
OCTOBER 1, 2015**

**AT THE  
HOTEL WOODBRIDGE AT METRO PARK**

We have slots available for some of our retiring directors. We are looking for new ideas and would enthusiastically welcome new board members! Please contact our Nominations Chair: **Marilyn H. Ayers at 732-477-2281** or **mhacpa@comcast.net** for more information.

*Please consider joining us!*

# DON'T NEED TO FILE A SENIOR'S TAX RETURN! Are you sure?

BY GWENDELLEYN RADLOFF, EA

**YOU COULD BE THE SALVATION** to the senior client's life style. A lot of senior clients' income usually falls below the filing requirement threshold. They are told not to file and are saved from being charged a fee for a simple tax return. These returns may have just some interest income, Form 1099-R for pension or other retirement distributions and Social Security. Some clients may have a Schedule A with real estate taxes and maybe a few charitable contributions and lots of medical expenses. We quickly tell our senior client that no return is necessary. In many cases, the Standard Deduction and Personal Exemption wipe out their taxable income.

BE AWARE: You can help them by delving into their financial situation.

The **PREPARATION OF A TAX RETURN** can provide support for the following:

## A. GOVERNMENT PROGRAMS:

1. Are they receiving the \$250 reduction of their real estate tax from the Veteran's or Senior Citizen's benefit? Many people who move into New Jersey are unaware of these discounts. Some disabled veterans are exempt from property tax.
2. Are they filing the Property Tax Reimbursement "Senior Freeze" application, which stabilizes their real estate taxes at the level for the qualifying year? Not everyone who qualifies has received the PTR booklet. You can help make sure that people who qualify are gaining access to the program.
3. Are they filing for the prescription discount plan PAAD?
4. Are your senior citizen clients taking advantage of the Heating Energy Assistance Plan?
5. Are they utilizing all the state and local municipality programs available to them?

## B. FINANCIAL ANALYSIS:

Is your senior client over age 70 1/2 taking just the required minimum distribution? We need to analyze the taxability of their withdrawal. If there is no tax to be paid, then maybe additional monies can be

withdrawn and still have a zero tax liability. In fact, a client within the age range of 59 1/2 until 70 1/2 can withdraw from their retirement investments and may have their monies FREE from income tax liability. For clients nearing the senior age, there is the Substantially Equal Periodic Payment, also known as Section 72(t) {72(t)(2)(A)(iv)}. The 72(t) makes it easier to take money out of the IRA. It eliminates the penalty for early distributions. You can help your client gain access to money they need and help them control their taxes.

Make sure that the state tax liability is considered in the financial advice. Our New Jersey clients have pension exclusions of \$10,000 for MFS, \$15,000 for single and \$20,000 for MFJ. Unused pension exclusions may be used for the withdrawals from 401k's or IRA's and other income.

By making sure that the client can withdraw ALL FUNDS possible and yet staying under the taxable threshold, you will be helping the client have sufficient funds to live more comfortably.

## A. ADDITIONAL BENEFITS:

1. Help clients to pay down charge cards with high finance rates.
2. Documentation for the application of home equity loans.
3. Documentation for guaranteeing loans for grandchildren's college financing.
4. Required document for the New Jersey Inheritance Tax Return
5. Establishes data file for governmental benefits

The advantages of preparing a tax return for our senior clients may far outweigh the preparation cost. As a benefit to you the preparer, the client relationship will surely be enhanced by your personal consideration for the client's quality of life during the senior years. You may even cultivate extended family relationships and grow your tax practice.

*Gwendelley Radloff, EA has been practicing in Rutherford, NJ since the early 1980's and is a member of NATP. She currently serves as a member of the NJ Chapter's Board of Directors. You may contact Ms. Radloff at: gradlofftax@live.com*

# THIRD-PARTY VERIFICATION LETTERS

BY MARILYN H. AYERS CPA

**I HAVE OFTEN RECEIVED CALLS** for additional copies of tax returns or W-2 forms from clients who can't ever seem to find the copy I give them or the original documents returned to them. I'm not sure what they do with them. I sometimes put things in a "safe" place and have trouble remembering where I put it but I always know where my tax returns are!

In addition to requests for replacement documents, I also receive requests from third parties to verify any number of items for clients, especially those clients who are self-employed. This past tax season I received requests from mortgage underwriters, health insurance companies and insurance underwriters. I actually received a request from one of my clients who asked if I could please write a letter to verify he was self-employed and relied on his income as the sole provider in his household to help him get out of jury duty!

At our Annual Fall Conference held October 4, 2012, our theme was "The Ever-Changing Due Diligence Requirements". The topics included no record audits, reasonable cause, abatement of penalties, identify theft and offers in compromise. But I must admit that the topic that really got my attention was presented by the last speaker of the day - Howard Bookbinder, CPA. Howard talked about our liability in providing what he referred to as "comfort letters".

A "comfort letter" is a letter that contains specific language, a verification statement or a certification form. The requests often come from mortgage originators asking the EA/CPA/RTRP/Accountant to provide certain assurances related to a mutual client. I have been told by the underwriters that if I don't provide the letter, the client will be denied the mortgage. I want to help my client but I feel very uncomfortable provided these letters of assurance.

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# THIRD-PARTY VERIFICATION LETTERS

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The AICPA provides a Q & A on their website regarding Third-Party Verification Letters: <http://www.aicpa.org/interestareas/frc/pages/concernsregardingcomforthletters.aspx>. It reminds us of our professional responsibilities. It doesn't matter what affiliation, if any, you have, we must strictly adhere to Internal Revenue Code, Section 7216 as paid preparers. Treas. Reg. Section 3301.7216-3 actually makes it a crime for a tax preparer to disclose client tax information to a third party without signed written consent from the client in a format specified by the IRS. NATP has a tool-kit on their website for members to assist us with this format. The first step is to obtain our client's written permission to disclose information to a third party. Second, AICPA recommends that we send any requested documents directly to the client. But what about those darn letters the mortgage company insists we provide?

Tax preparation standards for due diligence under Circular 230, Section 10.34(d) allow a tax preparer to rely on information furnished by the client. However, these standards are not sufficient when being asked to verify, certify or otherwise validate information presented on a tax return to a third party. The AICPA cautions preparers not to go beyond the scope of the tax preparation standards. In other words, we can't verify information beyond what the tax return tells us - the likelihood of

continued self-employment income, for example. Suggested language might include: "I verify that I prepared a tax return reporting \$XX,XXX amount of income based on information provided by the client". I have found, though, that underwriters usually have a very specific verbiage that they want. I want to help my client but often I alter that language to conform to our tax preparation standards. Using text provided by AICPA, my letter usually states the following facts:

- Confirmation that I prepared the tax return
- Confirmation that the return was prepared from information furnished to me by the client
- Statement that I have not verified the information provide to me and make no assurances regarding the accuracy of the information
- Statement that tax return was prepared in accordance with standards contained in IRS Circular 230, a strict set of rules and regulations that all paid tax preparers must follow
- Statement that a tax return does not represent any assessment nor do I provide any assurances on my client's creditworthiness
- Use of the client's tax return and my letter to support a credit decision by the lender is solely their responsibility

All of my letters written with this language have been accepted by mortgage underwriters. I hope this helps you in your practice.

Website: [www.njnatp.com](http://www.njnatp.com) or call 732-477-2281

## NJ-NATP BOARD OF DIRECTORS 2015

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### DIRECTORS

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