



Chapter IdEAs

"To Promote the Professionalism and the Growth of Our Members"
CSEA Inland Empire Chapter December 2011



ETHICS IN THE DIGITAL WORLD BY RUSSELL FOX, EA

David DeKoekkoek, EA, Program Chair

When many of us began our careers, computers filled rooms; today, your cellular phone likely has a more powerful computer than some of those ancient behemoths. Likewise, the world of tax has changed dramatically over the past twenty years. Not only are most returns electronically filed, we face mandates on both the state and federal level requiring us to electronically file returns for clients.

The digital world we live and work in has dramatically impacted our ethical duties as Enrolled Agents. Russell Fox, EA explains how the digital world has changed our ethical responsibilities.

Before forming his own tax and consulting practice in 1999, Russell Fox, EA worked in private industry for 17 years. He held various finance and operation management positions in a diverse spectrum of companies, ranging from California's largest grower of citrus to the dot-com that invented the pop-up advertisement.

Russ is the immediate past president of the Orange County Chapter of CSEA. He received his B.S. from the University of California, Berkeley, and his M.B.A. from the University of Southern California.

This session will fulfill the annual ethics requirement of CSEA and the IRS. We look forward to seeing you there!

PRESIDENT'S MESSAGE

Pam Jipp, EA, Inland Empire Chapter President

Happy Holidays to everyone! I know that, in addition to preparing for the holidays, you are also preparing for tax season. You may be hiring and training staff as well as stocking up on supplies and tax programs.

As Tax Professionals, we are always looking to increase our knowledge of tax issues. We want to be equipped to prepare and plan our client's tax returns as well as represent them when the need arises. When a client is in need of representation, they expect their tax professional to be well versed in the challenges they are facing. By doing so, this sets us apart from those that simply prepare tax returns. Don't miss the 2012 Practitioners Seminar. Attending this seminar will increase your knowledge on the latest issues that will give you the opportunity to impress and attract new clients. This seminar will be held on January 6 at the San Bernardino Hilton. You still have one more opportunity to attend the seminar at no charge. If you are a new member and attend your first dinner meeting in December or, you are a member and invite a guest to our December dinner meeting you will be included in the drawing to attend the 2012 Practitioners Seminar free of charge.

Congratulations to all of the Inland Empire Chapter PEAs. If you don't know what a PEA is you should join us at our dinner meetings!!!!

Update from the Board of Directors

Joel Hendriks, EA, Secretary

The November meeting of the Board of Directors was held on November 9, 2011. The Minutes from the October meeting were corrected and approved. The Treasurers report was reviewed and accepted pending the annual review.

The Chapter is looking for a volunteer to be the editor of our monthly newsletter. Jerry Watson, EA will be acting as our interim newsletter editor until a permanent replacement can be found.

The Board voted to reserve our meeting dates for the second Wednesday of each month at the Hilton Hotel in San Bernardino for the months of May 2012 through December 2012.

The membership voted and unanimously approved the proposed changes to the Chapter By-Laws as published in the previous Newsletter.

The next Board Meeting will be held December 14, 2011 at the Hilton Hotel in San Bernardino, CA at 4:00 p.m.

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Practitioners Seminar *Register Soon*

The practitioner's seminar for Friday January 6th early registration has been extended to November 30th at a rate of \$130.00. After November 30th the registration rate is \$155.00. A new topic has been added **FBAR Reporting** requirements. With this addition the seminar will cover:

Fresh Start Collection Initiatives - How can this benefit your clients?

Return Preparer Office – What is the latest?

Identity Theft – How the IRS can help your clients!

Board of Equalization – Appeals Weighing Your Options

Franchise Tax Board- Hear the Latest!

Taxpayer Advocate Service – Working together to help your clients!

990N Postcard – How do you reinstate a lost tax-exempt status?

FBAR – Report on Foreign banks and financial accounts.

You can follow the link from the Chapter website www.ietaxpro.com or call: Kim Weisham at 909-944-0446.

EITC Due Diligence Penalty Increased

The EITC due diligence penalty jumps from \$100 to \$500, per failure to comply, on returns filed after December 31, 2011. Learn your how to meet your requirements and how to avoid penalties with the online EITC Due Diligence training module at: <http://www.eitc.irs.gov/rptoolkit/ddmodule/>

Return Preparer Letter - Filing Season 2012

You are receiving this letter because the returns you prepared for clients during the most recent filing season have a high percentage of attributes associated with returns typically containing inaccuracies and misinterpretations of tax law. The enclosed document addresses some income tax issues our review suggests you may have misunderstood or misinterpreted. Please review this information carefully.

Tax return preparers are expected to be knowledgeable in tax law and prepare accurate returns while exercising due diligence. In general, preparers may rely in good faith upon client-provided information but they may not ignore the implications of information known or reasonably suspected to be untrue, incomplete, inconsistent or inaccurate.

Both you and your clients may be adversely affected by incorrect returns. These consequences may include any or all of the following:

- If your clients' returns are examined and found to be incorrect, your clients may be liable for additional tax, interest, additions to tax and penalties.
- Tax return preparers who prepare a client return for which any part of an understatement of tax liability is due to an unreasonable position can be assessed a penalty of at least \$1,000 per return (IRC section 6694(a)).
- Tax return preparers who prepare a client return for which any part of an understatement of tax liability is due to reckless or intentional disregard of rules or regulations by the tax preparer, can be assessed a penalty of at least

\$5,000 per return (IRC section 6694(b)).

We will visit some tax return preparers who receive this letter beginning in November to confirm compliance with return preparer requirements. If we select you for a visit, an IRS representative will contact you to schedule an appointment and to provide you with additional information about the topics we will cover.

In addition to your responsibility to exercise due diligence in preparing accurate returns for your clients, you should be aware of the IRS's tax return preparer requirements, including proper entry of a preparer tax identification number (PTIN) on all returns you prepare for compensation and adherence to electronic filing regulations. For more information on these requirements, visit our website at www.irs.gov/taxpros.

We hope this letter has heightened your awareness of your responsibilities as a tax return preparer and provided you with information on how you can meet your obligations.

Sincerely,

David R. Williams

Director, Return Preparer Office

Tax Court Reviews

Paul Cheatham, EA

In T.C. Memo. 2010-191 the issues for decision are: (1) Whether petitioner is entitled to deduct business expenses of \$34,534; (2) whether petitioner may deduct charitable contributions; (3) whether petitioner is entitled to married filing jointly filing status; and (4) whether petitioner is liable for additions to tax under sections 6651(a) and 6654. Petitioner was self-employed as a loan consultant in this year.

I would like to focus on how the Court handled the deductibility of the business expenses claimed on his Schedule C. What happens in court when the IRS bases their adjustments on the lack of adequate substantiation provided by the taxpayer, and the taxpayer relies on reasonable estimates and plausible explanations? The Opinion section of this decision starts off by saying that deductions are a matter of legislative grace, and the taxpayer must prove he or she is entitled to the deductions claimed. The following quote is familiar language in Tax Court cases dealing with this issue and is taken directly from pages 5 and 6 of this decision. It should serve as a chilling warning to taxpayers and tax preparers alike who rely too much on estimates.

“As a general rule, if the trial record provides sufficient evidence that the taxpayer has incurred a deductible expense,

but the taxpayer is unable to substantiate adequately the precise amount of the deduction to which he or she is otherwise entitled, the Court may estimate the amount of the deductible expense and allow the deduction to that extent. Cohan v. Commissioner, 39 F.2d 540, 543-544 (2d Cir. 1930); Vanicek v. Commissioner, 85 T.C. 731, 742-743 (1985); Sanford v. Commissioner, 50 T.C. 823, 827-828 (1968), *affd.* Per curiam 412 F.2d 201 (2d Cir. 1969); sec. 1.274-5T (a), Temporary Income Tax Regs., 50 Fed. Reg. 46014 (Nov. 6, 1985). In these instances, the Court is permitted to make as close an approximation of the allowable expense as it can, bearing heavily against the taxpayer whose inexactitude is of his or her own making. Cohan v. Commissioner, *supra* at 544. However, in order for the Court to estimate the amount of an expense, the Court must have some basis upon which an estimate may be made. Vanicek v. Commissioner, *supra* at 742-743. Without such a basis, any allowance would amount to unguided largesse. Williams v. United States, 245 F.2d 559, 560-561 (5th Cir. 1975).”

The judge in this decision applied the above principles to the Schedule C expenses claimed as follows:

- Advertising expense of \$2,335 was claimed and \$1,978 was allowed.
- Car and Truck Expenses of \$5,539 was claimed and nothing was allowed.
- Contract Labor of \$17,525 was claimed and nothing was allowed.
- Depreciation of \$942 was claimed and nothing was allowed.
- Legal and Professional Expenses of \$3,963 were claimed and \$803 was allowed.
- Office Expenses of \$2,723 was claimed and \$2,360 was allowed.
- Travel, Meals, and Entertainment of \$2,511 were claimed and nothing was allowed.
- Utilities of \$5,048 were claimed and \$2,315 was allowed.
- Credit Card Membership Dues of \$250 was claimed and nothing was allowed.

These are typical results reached in many Tax Court cases where the issue is substantiation. The Court did not allow any deductions in excess of the amounts conceded by the Respondent (IRS). The moral of the story is that ***the burden of proof is on the taxpayer to substantiate the deductions.*** The IRS auditors are well-aware of these rules, most taxpayers are not.

Mark Your Calendars!!

Wednesday, December 14, 2011

Chapter Meeting — *ETHICS IN THE DIGITAL WORLD, RUSSELL FOX, EA*

4:00 Board Meeting; 5:30 Meet & Greet Social; 6:00 Dinner; 7:00 Program

Dinner choice of Chef's Choice Vegetarian OR London Broil, Roasted Red Potatoes, Veggies and Dessert

Chapter Meeting location: Hilton Hotel, 285 E. Hospitality Lane, San Bernardino, CA.

Wednesday, December 14, 2011

Chapter Meeting: San Bernardino Hilton

Ethics, Russell Fox

Friday, December 16, 2011

Brass Tax 1040/540 Tuneup, Ontario Convention Center

January 6, 2012

Practitioner Seminar

May 2012

Chapter Meeting

June 2012

Chapter Meeting

Due to Hotel Policy dinners will not be provided without prior reservations. Chapter Program cost is \$40 for members (\$45 for non-members and guests) for reservations made by 4 pm on Friday preceding the program. Late reservations are \$10 additional and can be made until 12 noon Wednesday of the day of the program. If a reservation is made and one is a "no-show", the member will be billed for the missed reservation. Walk-ins to the Seminar are \$55. RSVP to jkincaidea@gmail.com or 951-204-4882.

The Inland Empire Chapter of CSEA accepts all VISA, Master Card, Discover, and American Express credit cards for payment of continuing education credits. Sorry, no debit cards. To pay by credit card, go to www.ietaxpro.com, on left hand bar click "payment by credit card" and then download "IE Chapter Credit Card Form". After you have completed and signed the Form, fax to Fax 951-687-1872 or attach to an email and send to: jkincaidea@gmail.com
All information must be received by 4 pm Friday preceding the monthly meeting to receive the lower rate.

Check out CSEA Foundation Scholarship auction through November 30th at www.CSEAEducationFoundation.org.

Become a Subscriber to the PIA 2011-12 Publicity Campaign

Early Bird Registration for the 2012 Practitioner's Seminar ends November 30th. Sign up today and Save.

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Inland Empire Chapter CSEA

First Class Mail

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