



Chapter IdEAs

"To Promote the Professionalism and the Growth of Our Members"

CSEA Inland Empire Chapter July 2010



The Fall and Revival of the Estate Tax and the Economy: Avoiding the Pitfalls of Estate Planning in 2010 — July Topic

David DeKoekkoek, EA, Program Chair

Estate taxes and planning for the current year will be the topic presented by Attorney Christopher A. Shumate at the July meeting. Since the estate tax has been repealed for 2010, it is an unusual year for both estate taxes and estate planning. The repeal of the estate tax also means there is no step-up in basis! What are rules for 2010 when there is no estate tax? What is carryover basis? What happens in 2011? Do we return to the 2001 higher rates and lower exclusions? Our speaker will be addressing all of these questions and more during this informative and timely presentation.

Christopher Shumate received his BA from the University of California at Riverside and his law degree from the J.D. Chapman University School of Law with a certificate in taxes.

After graduating cum laude from law school, Christopher served as a Deputy District Attorney for Riverside County for three years, prosecuting criminals in the Domestic Violence Unit and the Sexual Assault and Child Abuse Unit. He has taken 21 cases to jury trial resulting in verdicts, along with well over 50 preliminary hearings and motions involving hundreds of criminal cases.

Christopher and his wife were on the full-time staff of Campus Crusade for Christ from 1999 - 2002, serving as Campus Ministers at Chico State and in Mexico City, and finally served with the greater U.S. Southwest Region.

Christopher is a member of the Greater Riverside Chamber of Commerce and Loma Linda Chamber of Commerce.

RESIDENT'S MESSAGE

Connie Bracher, EA, Inland Empire Chapter President

I'd like to express my thanks for the great honor you have bestowed upon me by electing me as your President. I will do my best to be deserving of your trust. Additionally, you have elected great Officers and Directors that I look forward to working with over the next year.

The greatest asset of CSEA is the Members; therefore, let us together, embark on a mission to bring greater benefits to our Members, both tangible and intangible. I challenge each Member to recruit at least one new Member into our great organization during the next year. If you require bribing to this end, our Chapter has a New Member Recruitment Award: The member who brings in the most new members (with a minimum of four) will have their State and Chapter membership fees paid for them.

The Core Purpose of the Inland Empire Chapter of CSEA is "To Promote the Professionalism and the Growth of Our Members." To this end, we dare not forget that we are the beneficiaries of all EAs that have walked before us, and all who have sat in my chair prior to me. Just as our past leaders had to face challenges, we continue to face challenges today. We must be on the offensive "To be the leader in providing education and support to Enrolled Agents in our region."

I do not believe in a fate that will fall on us no matter what we do. So, with all the creative energy at our command, let us begin. I charge the incoming Officers, Directors, and Committees to serve our Members and be receptive to new ideas, as our greatest strength is the power of our ideas.

We are a new Board with new ideas and new energies; however, we are continuing on a journey that others have walked before. What a great opportunity we have to be a part of our history. As we move forward I ask each one of you: If not us, who? If not now, when?

Update from the Board of Directors

Pat LaRue, EA, Secretary

At the June 12 Board Meeting reports were heard from various committees and the Treasurer's Report was given.

Connie Bracher EA requested that committee chairs present write down their plan of action for the coming year and provide a suggested amount for the budget. The worksheets were collected at the end of the meeting for review and compilation.

Clara Barrett EA continues to seek ideas on how to present the role of the Enrolled Agent in the media. She had some people volunteer to assist her on the Public Information and Awareness Committee. She also needs people who are willing to make presentations as the opportunity arises.

The master schedule for the Newsletter was discussed and several of the committees committed to articles in the coming months. Have something for the Newsletter? Don't be afraid to share.

President Don Stacy EA continued to encourage interested parties to attend the upcoming annual meeting in Rohnert Park. Next year's meeting will be a bit closer in San Diego.

Paul Cheatham EA volunteered to assist with the organization of the Representation Seminar later this year. Perhaps we can explore some "hot topics" this time around.

The proposed slate of Officers and Directors was elected at the general meeting. The Board earlier requested that the Secretary prepare the documentation required by the bank to authorize new signatures on the accounts.

The next meeting of the Board of Directors will be held on July 14, 2010 at the Hilton Hotel in San Bernardino.

2010-2011 Board of Directors

President
Connie Bracher, EA
909/338-0041
connie@acorntax.com

1st Vice President
Pam Jipp, EA
760/955-6434
Anhy@aol.com

2nd Vice President
Norma Rae Hill, EA
760/360-0207
nrh_pdtax@yahoo.com

Secretary
Pat La Rue, EA
909/874-5664
bplaru@earthlink.net

Treasurer
Jackie Kincaid, EA
909/466-7466
jkincaidea@earthlink.net

Past President
Don Stacy, EA
951/244-1513
taxman@ez2.net

CSEA Director
Paul Cheatham, EA
909/944-0446
paul@cheathamassociates.com

CSEA Representative
Pam Jipp, EA
760/955-6434
Anhy@aol.com

Directors
Clara Barrett, EA
951/924-6450
clarabarrett@msn.com
Leroy Beeken EA
951/301-0200

Michael Dominguez, EA
951/276-2999 Ext. 7001
atsmd@earthlink.net

Joel Hendriks, EA
909/797-1366
Joel.baker.tax@verizon.com

Donald McAllister, EA
951/688-3263
dhmcall@pacbell.net

Ron Uhle, EA
909/590-5664
ruehlenhb@yahoo.com

Jerry Vine, EA
909/466-5387
jerry@msjjetpro.com

CSEA Inland Empire Chapter Committee Chairs 2009-2010

AWARDS
Ron Uhle, EA
909/590-3423
ruehlenhb@yahoo.com

BUSINESS RETENTION
Ken Alvarado, EA
909/794-2901
alvaradotaxman@aol.com

DISASTER SERVICE
Ken Alvarado, EA
909/794-2901
alvaradotaxman@aol.com

EDUCATION
Jerry Vine, EA
909/466-5387
jerry@msjjetpro.com

FINANCE & BUDGET
Ron Uhle, EA
909/590-3423
ruehlenhb@yahoo.com

FINANCIAL REVIEW
Don McAllister, EA
951/688-3263
dhmcall@pacbell.net

HISTORIAN
Janice Baker, EA
909/797-1366
bakertax@verizon.net

LEGISLATIVE
Joel Hendriks, EA
909/797-1366
joel.baker.tax@verizon.net

MEMBERSHIP
Norma Rae Hill, EA
760/360-0207
nrh_pdtax@yahoo.com

NEWSLETTER
Richard Franke, EA
951/652-6105
editor@ietaxpro.com

PROGRAM
David Dekoekkoek, EA
909/793-1021
dave@ddktax.com

PUBLIC INFO. & AWARENESS
Clara Barrett, EA
951/924-6450
clarabarrett@msn.com

SEMINARS
Paul Cheatham, EA
909/944-0446
paul@cheathamassociates.com

STRATEGIC PLANNING
Pam Jipp, EA
760/955-6434
Anhy@aol.com

WEB-SITE
Joe Ligori, EA
951/654-9955
joe@ligoritax.com

CSEA Director's Report

Paul Cheatham, EA—CSEA Director

Greetings from Reno, Nevada. I attended the **CSEA Board** meeting held here on June 1 & 2. It was note-worthy because it marked the final meeting for our current officers. New officers will be installed at the next Board meeting in Rohnert Park later this month. David Shaw is the out-going President. He has been a positive force for CSEA and an effective leader. Kim Kastil is the in-coming President. I expect her to be a capable leader as well.

The CSEA budget for next year is a repeat of this year. The current year Income Statement is expected to come in with just a small deficit. The Society has ample resources to cover the small deficit. This also means that CSEA has the resources to continue its various programs and activities, very important in light of the national preparer registration program. Further, our Super Seminars were well-attended this year. Education continues to be one of the things our Society does best.

The ability to do electronic voting is going to the Bylaws Committee. I expect this will pass in some form in the near future. The advantage will be that member participation and input will be increased because electronic voting will be more convenient than our current voting procedures. Please see me at the next meeting for the latest information about our Society.

It was an exciting meeting at the **CSEA Annual Convention and Board** meeting in Rohnert Park on June 25-27, 2010. Cathy Apker, our Executive Vice President (EVP) for the last 20 years or so, announced that she was leaving before the end of the year. There have been rumors that this might occur for the last year, so it was not totally unexpected, but like a death in the family, even when you expect it there is still an element of surprise. The process is in place to select a new EVP. This responsibility falls on the Executive Committee. The Executive Committee is composed of the current officers, the immediate Past President and two Board members. I was selected by the other Board members to serve on the Executive Committee.

I will also be serving on the Membership, Public Information and Awareness and the Finance and Budget Committees this year. All of this is very rewarding on a professional level. However, this is my last year as your Director to CSEA. Accordingly, I want to encourage each and every one of you to consider getting involved with CSEA. It has been a wonderful experience for me. Please see me for my (as always) candid comments about what you can expect. I plan to stay active with CSEA, perhaps as a committee member.

One last thing, the Board approved a new logo for CSEA. Many felt that in order to facilitate branding, expected IRS-mandated changes regarding preparers and to help identify us as Federally-licensed practitioners, a new logo was necessary. So, you may want to hold off on ordering anything with the CSEA logo until the new one is released.

CHAPTER NOTES

Pre Pay and Save \$40

July is when you can pay \$280.00 for all eight meetings during our 2010-11 fiscal year. When you prepay, you do not have to be concerned about any increase in fees until the following July and no RSVP is required, you only need to call if you are NOT going to attend a monthly meeting. Just bring a check payable to CSEA for \$280.00 to the July meeting. If you want to pay by credit card, fill out the form located on the Chapter's website, www.ietaxpro.com, click on Payment by Credit Card and follow the links to the form to charge your credit card.

Brass Tax "Stocking Your Tax Tool Box"

This Year's Most PRACTICAL Tool Box Seminar: "Mechanics of Foreclosures and Debt Relief, Roth IRA Conversions, Education Tax Benefits, New Tax Preparer Registration, New Tax Provisions for 2010" is to be given on Wednesday, September 29, 2010 at the Ontario Convention Center, 2000 Convention Center Way, Ontario, CA

92108. The Early Bird fee is \$175 until 7-31-10. The price at the Door is \$200. For those who register through the Chapter, the Chapter receives a rebate. Mail your registration to: CSEA c/o Jackie Kincaid, EA, 5924 Mt View Ave, Riverside, Ca. 92504.

For additional information call Barbara Robertson, EA at 909-466-7466 or Brass Tax at 909-937-3000.

Tax Court Cases Reviews

Paul Cheatham, EA

T.C. Memo. 2009-173 the respondent determined a deficiency of \$8,389 in petitioner's Federal income tax for 2006. The issue for decision is whether petitioner is entitled to deduct \$46,173 in relation to a travel services activity. Petitioner has a college degree in accounting. During 2006, petitioner worked as an auditor for the firm of McGladrey & Pullen, L.L.P., reviewing financial statements and reconciling balance sheets. Petitioner also attended evening classes at Keller Graduate School of Management for the purpose of obtaining a master's degree in business.

In December 2005, petitioner attended a marketing session for YTB Travel Network (YTB). YTB operated as an online multi-level marketing company and hosted a Web portal for "referring travel agents" to complete travel sales to clients. YTB paid a commission for any such completed sales. YTB charged fees of \$49.95 per month for use of its Web site. On petitioner's Form 1040, for 2006, petitioner reported wage income of \$74,766 and claimed \$72,062 on Schedule A, Itemized Deductions. On the Schedule A "Other expenses" line she deducted \$46,173 described as office expenses of \$173 and office rent expense of \$46,000. Subsequently, on Form 1040X, petitioner reduced the itemized deductions claimed on Schedule A and claimed \$46,100 on Schedule C, Profit or Loss From Business. No gross receipts were reported on this Schedule C.

Generally, the taxpayer has the burden of proving that the claimed expenses were ordinary and necessary business expenses rather than nondeductible personal expenses. In ruling that the expenses claimed were personal, non-deductible expenses (IRC Sec. 262), the judge dismissed petitioner's claims of business purpose as improbable and implausible. Further, that there were simply too many gaps in the scenario presented by petitioner and her friends for the Court to accept her claims.

Comment: I guess this person wasn't as smart as they thought.

T.C. Summary Opinion 2009-190 the respondent determined a \$6,230 income tax deficiency and a \$1,246 accuracy-related penalty under section 6662(a). The issue is whether the petitioner is entitled to a casualty loss deduction for 2005.

On August 12, 2005, the petitioner purchased a 2006 Ford F-350 for \$40,211. On October 28, 2005 he rolled and severely damaged the truck on his way home from a party. Because his blood-alcohol level was 0.09 percent, he was cited and arrested for driving under the influence of alcohol. His claim for reimbursement was denied by his insurance carrier because of his DUI citation and arrest. Accordingly, he claimed a substantial casualty loss on his 2005 tax return for this unreimbursed loss. The IRS disallowed the loss on the grounds that the petitioner's drunk driving rose to the level of gross or willful negligence and is therefore not allowable under Regulation Section 1.165-7(a) (3). Alternatively, the IRS argued, that the loss should not be allowed because to do

so would frustrate public policy. In other words, allowing a tax benefit for the loss subsidizes drinking and driving.

The judge allowed the casualty loss by reasoning that the petitioner's decision to drive after drinking was negligent, but that alone does not automatically rise to the level of gross negligence. Further, allowing the casualty loss deduction would not in any way alleviate the "sting" of any punishment imposed by the State of California for the criminal aspect of his actions. Furthermore, the Court is not empowered to judge petitioner's actions from a criminal perspective or to punish him for his actions. Finally, the accuracy-related penalty is moot because the casualty loss was allowed.

Comment: This case may come in handy for some of our clients, but hopefully not our members! The IRS tends to "over-reach" sometimes.

T.C. Summary Opinion 2009-135 the issues for decision are whether petitioners: (1) Were engaged in an activity for profit; (2) are entitled to itemized deductions in amounts greater than the IRS allowed for each year in issue; (3) are entitled to a capital loss deduction greater than the IRS allowed for 2002; and (4) are liable for an accuracy-related penalty.

What makes this case of interest is that the petitioner worked full time for the IRS from 1998 to 2006, initially as a customer service representative and finally in a collections function. His wife commenced work for the IRS as a customer service representative in October, 2003. Their joint individual income tax returns for 2001, 2002 & 2003 are the subject of this case. The petitioners purported business activity was as a real estate agent. In 2001 he reported \$400 of gross receipts and a net loss on his Schedule C of \$19,402. In 2002 he reported no income and a net loss on his Schedule C of \$19,700. In 2003 he reported no income and a net loss on his Schedule C of \$10,776.

In this 29-page decision the judge ruled against the taxpayer and disallowed the claimed losses. The petitioner did not establish that he conducted his activity for profit (Sec. 183), that the expenses were ordinary and necessary (Sec. 162) or that he expended funds for the purposes reported on his Schedule C. In sustaining the determination of the accuracy-related penalty (20%) for each year, the judge wrote that, "... petitioners disregarded applicable rules and regulations and acted negligently in filing their tax returns...".

In **TC Memo 2010-82** the taxpayer's contested the IRS adjustments made to their 2004 and 2005 joint tax returns. The taxpayers prepared their own returns using Turbo Tax. The wife reported expenses for her real estate business as well as unrelated losses on a single Schedule C. Adjustments to this schedule resulted in most of the taxpayers' income tax deficiencies and Section 6662 accuracy-related penalties. At trial, the wife argued that they consistently filled out their tax returns using Turbo Tax and she consistently confused capital gains and losses with ordinary income and expenses. In rejecting the taxpayer's misuse of Turbo Tax, even if unintentional or accidental, as a defense to the penalties, the Tax Court noted that "tax preparation software is only as good as the information one inputs into it." While reliance on the advice of a tax professional can establish reasonable cause and good faith for avoiding a penalty, taxpayers did not rely on a professional preparer but prepared the returns themselves.

Mark Your Calendars!!

Wednesday, July 14, 2010

Chapter Meeting — *Estate Taxes & Current Planning Issues*, Attorney Christopher A. Shumate

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

Dinner choice of Vegetarian Plate or Green Salad, London Broil Bordelaise, Roasted Red Potato, Fresh Vegetables, Sourdough Rolls, Dessert

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

Wednesday, August 11, 2010

Chapter Meeting: *Practice Mgt—Tax Work Flow*, Candace Cross, CPA

Friday, December 17, 2010

1040/540 Tune Up, Ontario Convention Center

Wednesday, September 8, 2010

Chapter Meeting: *California Update*, Lynn Freer, EA

Wednesday, May 11, 2011

Chapter Meeting: Attorney Dean I. Friedman

Wednesday, September 29, 2010

Stocking Your Tax Tool Box, Ontario Convention Center

Wednesday, October 13, 2010

Chapter Meeting: *Representation — Both Sides of the Desk*, Kim Kastl, EA

November 4 & 5, 2010

ClientWhys Seminar Hilton Hotel, Ontario, CA

Wednesday, November 10, 2010

Chapter Meeting: *Bankruptcy & Bus Tax*, Attorney Fred Cohen

Wednesday, December 8, 2010

Chapter Meeting: *Legal Issues for EA's*, Sherrill Gregory, EA

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. Walk-ins to the Seminar are \$55. RSVP to jkincaidea@earthlink.net or 909-466-7466.

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 909-533-2159 or attach to an email and send to: jkincaidea@earthlink.net.

*Renew your Membership.
Pay your 2010-2011 Dues for
CSEA and NAEA.*

Get your own Ad in the Chapter's Inland Empire Magazine Enrolled Agent spread. Form posted on the Chapter Website at www.ietaxpro.com

*Be sure to Pre-Pay for the
Chapter's 2010-11 Program year.*

*Pay by check at the July meeting or
on the web at www.ietaxpro.com.*

Chapter IdEA's is published May-January by the Inland Empire Chapter, CSEA. Classified ads are free to members up to 35 words; for non-members the cost is \$25. The Newsletter subscription is \$15 per year. It is distributed free to members of the Chapter. Checks payable to CSEA; include your name, address, email, and phone number; send to Jackie Kincaid, EA; 5924 Mt View Avenue; Riverside, CA 92504. Editorial Board: Connie Bracher, EA; Deborah St Martin, EA; Clara Barrett, EA; Pete Ellena, EA.



Return Service Requested

Hemet, CA 92544

PO Box 5460

editor@ietaxpro.com

www.ietaxpro.com

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