



Chapter IdEAs

"To Promote the Professionalism and the Growth of Our Members"
CSEA Inland Empire Chapter September 2009



Lynn Freer at the September Meeting

Joel Hedricks, EA, Education Chair

Lynn Freer will present a preview of her California Tax update at the September meeting as announced by the Program Chair, Dennis Phillips, EA. Lynn is a California tax specialist and every year she has taken her popular Updates on the speaking circuit. She covers filing season issues, new laws, and projected pitfalls in California taxes.

Lynn is the Editor of Spidell's California Taxletter, which is regarded by many as the authoritative California tax research publication. During the past two years she has supervised the design and construction of Spidell's California Taxes Online. Lynn works closely with all State tax agencies and is often consulted for input on policy decisions. She always has the inside information on what's happening at the State level because she devotes herself full time to analyzing, writing about, and teaching California tax law. She is a graduate of the University of California at San Diego and is a member of CSEA, NAEA, and ISTC. She was named Enrolled Agent of the Year by CSEA for producing a series of television shows on taxes.

Check out Spidell On-line at www.caltax.com. It is your #1 source for California tax research information. At caltax.com you can learn about and order from Spidell Publishing's host of products and services geared to California tax professionals. Make it easy to stay abreast of state tax changes and hear from Lynn directly at the September meeting.

PRESIDENT'S MESSAGE

Don Stacy, EA, President

Another month has gone by and what normally is the summer doldrums in my practice is as busy as tax season. Audits and collections are running at an all-time high and the representation needs are keeping us humming. With school starting we should have a breather right now before the October 15th deadline hits. I still have too many extensions out there that will expect to be done at the last minute.

One of the issues we all deal with is chasing too many projects at any one time. Sometimes I feel like the mountain climber who can't decide which mountain to climb, so he takes them all on at once...an impossible situation. Our practices all started out as simple tax preparation and then we started to add value to our business by offering additional services. And with the differentiation we have all found different "peaks" to climb. Some peaks have proven to be too difficult or not profitable enough. And many of us have found we have gifts and talents to climb a specific peak that is greatly rewarding for us.

Each of us should develop a business plan and stick to it. As we each reach the summit of different mountains we all will be able to enjoy the view and gain the rewards from our hard work. And once we've achieved the summit we need to think about getting off the mountain again – our secession plan. What a shame to work so hard to climb our mountain just to fall off a cliff in the end!

This month we welcome Lynn Freer, Ms. "California Tax" as our speaker this month. Please plan on attending to hear the latest changes on the California tax front that will be affecting all of us.

UPDATE FROM THE BOARD OF DIRECTORS

Pat LaRue, EA, Secretary

At the August Board meeting reports were heard from various committees and the Treasurer Report was given.

Ron Uehle EA presented the completed annual review of the Chapter's books and records. This was accepted by the Board of Directors.

Additional expenditures for the July speaker were approved. Expenses incurred by the President to attend the annual meeting were approved. Two of our members recently attended a tour of the

Fresno IRS Service Center; the expenses were approved for reimbursement. Since there will be no representatives traveling to the National meeting, it was agreed to take the needed funds from that account.

To help avoid any future issues with reimbursement of travel expenses, the Board approved additional language to Standard Operating Procedure #8 to include the words: "prior to the event" at the end of the current language.

Clara Barrett EA continues to work with Inland Empire Magazine on another possible ad similar to the one published last year. She will share particulars as these become available.

The next meeting of the Board of Directors will be held on September 9, 2009 at the Hilton Hotel in San Bernardino.

Internal Revenue Service Practitioner Outreach Event and Tour

Connie Bracher, EA and Don Stacy, EA

The Internal Revenue Service through Amy Smith, IRS Senior Stakeholder Liaison, San Bernardino invited two members of our Chapter to visit and tour the Fresno Campus on Thursday and Friday July 30-31. This was the first time since September 11, 2001 that any outside group were invited into the inner workings of the Campus. I extended the invitation to Board members and committee chairs. Connie Bracher, EA and I attended.

We were among 59 attendees from California and Nevada, representing over 50,000 tax professionals. Most of the attendees were EA's but there were also some CPA's in the group.

On Thursday there were approximately 14 of Fresno's Directors and Department Managers with additional IRS staff participants. Gerry Kelly-Brenner, Senior Stakeholder Liaison from Oakland participated as the coordinator and MC of the event. In the morning we heard presentations from various managers at Fresno, including Receipt and Control, Document Perfection, Input Correction, and Accounting. In the afternoon we heard from Compliance Services, Automated Underreporter, Examination (Correspondence), Automated Collection System, and the Taxpayer Advocate Service.

• Some of the highlights we heard:

The growing trend among W&I Taxpayers, is that 61% will use

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a paid preparer by 2009; the reasons include the complexity of the tax code, forms are too complicated, taxpayers do not have the time, and they believe a professional can get them a higher refund;

By 2010, a projected 36 million Taxpayers will be paying AMT, up from 1 million in 1999. Two main reasons were cited: If AMT had been indexed and no tax cuts were enacted in 2001, the number of taxpayers paying AMT in 2010 would have only been 300,000;

Fresno Campus will be processing 24 states by 2010;

Error Resolution has worked 4,469,692 paper filed documents and 1,736,150 Electronically filed returns; this translates to an average of approximately 25% for paper returns and 2% for electronically filed returns;

W&I Exam worked approximately 360,000 EIC cases in 2008; and worked approximately 240,000 Discretionary cases in 2008; Discretionary Cases mainly consist of alimony, 10% IRA, Tips, AMT, High-Income non-filers, Schedule A, and Hope Education Credit;

W&I Automated Underreported (AUR) notices are projected to increase from 2.8 million in 2008 to 3 million for 2009;

Top issues that cause delays in processing tax returns are missing signatures, photocopied signatures, missing W-2's, forms or schedules, incomplete returns, and not providing all the requested/additional documentation when requested;

Amended returns are running from 16 weeks to 9 months to process; they requested us to "not" attach the original return with the amended return, and again, the lack of signatures is the number one error when filing an amended return;

They requested that we use the address and bar code from the return envelope to return correspondence. If our material is too voluminous to go into their envelope, cut and tape the address and bar code to the front of the bigger envelop. The bar code speeds up getting the document to the correct person which, in turn, speeds up responses;

They requested that we maximize our Schedule C's to only 3 before we submit the return. All returns that contain more than 3 Schedule "C's" are sent to the "imperfect" return department which delays processing. In that department, they will consolidate them to only 3 if we don't or can't.

They also requested that we submit a Form 2106 with the return if we have more than \$1,500 dollars on line 21 of Schedule A.

The next day we were escorted in small groups of approximately 10 people each through the Fresno Campus wherein we got to see firsthand their operations and again ask any questions that came up. We were put through a security check before we were allowed into the building, and required escorts at all times while in the facility.

We were able to visit each function. The river of paperwork flowing through the Service Center and how organized everything became overwhelming. The equipment for just opening the mail was impressive, along with the security measures taken to ensure the safety of Internal Revenue Service employees working the mail. The Fresno Campus processes over 25 million pieces of mail every year. It was interesting to discover that mailing returns to them via certified mail only delays processing, and often only the post office employee stamp the return postcards. Seeing the machine that sorts the mail demonstrated to us the importance of using their return envelopes so the bar coding may be scanned and the mail sorted quickly. We learned the difference between perfect and "imperfect" returns, and how each return is checked for accuracy and completeness.

Because of the sheer volume of information we acquired we invite you to speak with either of us for more information. It was an event that we would both like to share further.

Advanced Representation Seminar

Whether your practice is primarily representation, or solely tax preparation, you must attend the CSEA Advanced Representation Seminar on Tuesday, October 27. You will hear from the Taxpayer Rights Advocates of FTB, EDD & BOE, and IRS Exam & Collections managers, plus practitioners. These experts will provide you lots of ideas that will help you protect your clients' rights. And they will answer your questions too. If you have further questions, contact Steve Davis, EA at 951-273-2909.

Sponsored Seminars—Brass Tax & ClientWhys

Just a reminder that the Chapter earns a portion of the seminar fee when you register for these

seminars through the Chapter. Registration forms have been in prior Newsletters. The flyer for ClientWhys is included as an insert in this issue. For more information call Barbara Robertson, EA at 909-466-7466.

Public Information Awareness Committee Projects

The current plan is to again have two advertisements in the Inland Empire Magazine. One ad will be in the December issue. This is the money matters issue. The Chapter will have a ¼ page ad and will have a CSEA press release that covers some year-end tax strategies. There will be no individual participation in this issue. The other ad will be in the Feb issue. This is the "Hotel Edition". In addition to the regular circulation, a hard bound copy of this issue is placed in area hotel rooms for the entire year. Members will have an opportunity to place a small individual ad as we did last year. We will provide additional information about this in the next issue. The Inland Empire Magazine is now on-line. The on-line version of our ad will have a direct link to the Inland Empire Chapter website. I am hoping to have this feature available for individual participants also but I am still working on the details.

We would like to disperse press releases in your local community throughout the inland area. Members who agree to participate will place a press release that they receive from State in their own local community newspaper. Each person will be able to include their own contact information in the press release. I need to hear from all of those who are interested in spreading the EA information in your community. By assisting us in getting the press releases out, you can get some free publicity for your business. . Connie Bracher, EA will participate for the Crestline mountain community and Don Stacy, EA will represent Canyon Lakes. To participate in your community, contact Clara Barrett EA, PIA Chair, at 951-924-6450.

LEARN & SHARE

One of the reasons we join CSEA is to maintain our knowledge of the ever-changing tax laws. Although most of us consistently earn continuing education credits that far exceed the annual requirement, it is still difficult to be proficient in the many different areas of tax laws. "Picking each other's brains" is an important member benefit as we network with other tax professionals. To this end, we introduced the Learn & Share column in our monthly newsletter so that other members might become aware of one or two significant pieces of wisdom that was learned by other members in the many, varied, classes that collectively we all attend each year.

I need your input to decide whether or not to continue putting effort in this column. I need contributors to submit their contributions. I am continually amazed as I attend our meetings at the wealth of knowledge that is available when we take the initiative to access it. Please email me your thoughts on this column including the answers to the following questions:

Have you benefitted from the information that was shared?

Are you willing to share a significant item when you attend courses or seminars?

Deborah St.Martin, EA - Deborah@oakvalleytax.com or taxlady5@verizon.net.

Review of Recent Tax Court Cases

Paul Cheatham, EA

Editor's comment—Paul is one of several members of the Chapter who has been sitting to pass the Tax Court exam. In the course of his preparation, he has volunteered to make available some of his summary notes of cases he thinks give some idea as to how tax laws are being applied. Paul welcomes your comments and is willing to discuss situations involving the interpretation of tax laws that are of member's concern.

T.C. Summary Opinion 2009-81 the Court ruled that a long-haul truck driver was allowed to deduct his away-from-home meals under a per diem calculation, thereby by-passing IRC Sec. 274 substantiation requirements.

The taxpayer was employed as a full-time truck driver for major trucking companies. He maintained a home in Texas, but was away-from-home 268 days in 2004.

His W-2s totaled \$45,919. He claimed \$18,755 as Employee Business Expenses on Form 2106, of which \$8,308 (268 days x \$31/day) was for away-from home meals. After a 50% reduction (IRC Sec 274(n)) the meals expense resulted in a claimed deduction of \$4,154.

The judge ruled that 268 days was the appropriate number of days inasmuch as this was never in dispute. However, he determined that the appropriate per diem rate should be \$41/ day and that the more generous 70% allowance was applicable inasmuch as the taxpayer was subject to "the hours of service limitations of the Department of Transportation". Hence, the taxpayer is entitled to a meals and incidental expense deduction of \$7,692 (268 days x \$41/day x 70%).

In recently issued **T.C. Memo 2009-135** the judge found that the IRS Appeals Officer abused his discretion by sustaining a levy action against the taxpayer (Howard Koff). Mr. Koff owed Federal income taxes for 2001, 2002, 2003 & 2004 totaling a little over \$200,000. He filed a valid request for a CDP hearing for these years and the Appeals Officer asked for, received and then lost some of the information provided by Mr. Koff. When Mr. Koff's representative asked for a short extension to provide the missing information and correct some errors in previous submissions, the Appeals Officer denied the request for a short extension and released the matter back to Collections.

Appeals Officers must consider: (1) Whether the requirement of applicable law and administrative procedure have been met, (2) any issues the taxpayer raised, and (3) whether the collection action balances the need for efficient collection of taxes with the taxpayer's legitimate concern that any collection action be no more intrusive than necessary. Sec. 6330 (c) (3).

The judge ruled that the settlement officer's refusal to grant a brief extension for petitioner to correct the income information on his Form 433-A was an abuse of discretion and denied petitioner his right to a fair hearing. Accordingly, the matter was remanded back to Appeals to consider an offer-in-compromise or other collection alternative.

In **T.C. Summary Opinion 2009-96** the Petitioner (Magdalena Stegawaki) submitted a Form 8857, Request for Innocent Spouse Relief, for taxable years 1997 and 1999, which was received by the Respondent (Internal Revenue Service) on October 18, 2005. On December 29, 2005, respondent sent to petitioner a Notice of Determination Concerning Your Request for Relief from Joint and Several Liability under Section 6015 denying petitioner any relief under section 6015 (b,c or f). Respondent's only reason for denying relief under section 6015 (f) was because she did not file her claim for spousal relief within 2 years of the first collection activity. It turns out that the Court has recently held that section 1.6015-5(b) (1), Income Tax Regs., is an invalid interpretation of section 6015. Lantz v. Commissioner, 132 T.C. (2009). Accordingly, the petitioner was granted equitable relief under section 6015 (f). Keep in mind, however, that the two-year rule still applies to sections 6015 (b & c).

In **T.C. Memo 2009-151** the taxpayer (petitioner) asked the Court to decide if he was entitled to an abatement of interest under section 6404(e) with respect to their 1998 and 1999 Federal income tax liabilities. The liabilities in these years were the result of IRS (respondent) audits. Subsequently, the taxpayer filed an offer-in-compromise (OIC) based on doubt as to liability. An IRS witness, IRS Interest Abatement Coordinator Tom Poppe, testified at trial that the IRS office in charge of processing OICs based on doubt as to liability was "inundated with offers at the time". He also testified that OICs based on doubt as to liability were considered low-priority cases, so it was "unfortunately typical for offers in compromise not to be worked for two or three years".

The Court will direct the Commissioner to abate interest if the Commissioner's exercise of discretion was arbitrary, capricious, or without sound basis in fact or law. Petitioner claims that respondent abused his discretion in failing to abate interest under section 6404(e) because (1) petitioners were induced to file an OIC upon the oral advice of one of respondent's call center employees and (2) respondent's decision to give petitioners' OIC low-priority status resulted in unreasonable delay. The Court ruled against the taxpayer because they could find no evidence that the respondent committed any ministerial or managerial acts requiring abatement of interest under section 6404.

Mark Your Calendars!!

Wednesday, September 9, 2009

Chapter Meeting — Lynn Freer, EA, Spidell Tax

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

Dinner choice of Vegetarian Plate or Chicken California, Green Salad, Rice Pilaf, Vegetables, Rolls and Butter, and Dessert

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

Friday, September 11, 2009

Brass Tax "Stocking Your Tool Box", Ontario

Wednesday, October 14, 2009

Chapter Meeting: Social Security Issues

Tuesday, October 27, 2009

Advance Representation Seminar, San Bernardino Hilton.

Thurs-Fri, November 5-6, 2009

ClientWhys "1040 Review & Update", Ontario Hilton

Wednesday, November 11, 2009

Chapter Meeting: Exit Strategies, David Smith

Wednesday, December 2, 2009

Brass Tax "Tune Up", San Bernardino Hilton

Wednesday, December 9, 2009

Chapter Meeting: "Retirement Plans", David Shaw, EA

Friday, December 18, 2009

Brass Tax "Tune Up", Ontario

Wednesday, January 13, 2010

IRS Practitioner Seminar, San Bernardino Hilton

Wednesday, May 12, 2010

Chapter Meeting: IRS Committee Report, Joni Terens, EA

May 10-12, 2010

CSEA Super Seminar, Las Vegas A

May 13-15, 2010

CSEA Super Seminar, Las Vegas B

Wednesday, June 9, 2010

Chapter Meeting: "Tax Court Issues", 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 kathy@ctbpro.com or 909-466-6900.

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: kathy@ctbpro.com. All information must be received by 4 pm Friday preceding the monthly meeting to receive the lower rate.

*Send in your registration for 2009
Advanced Representation Seminar
(Form inserted)*

Be sure you are connected!

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 Kathryn Dunn, EA; 8480 Red Oak; Rancho Cucamonga, CA 91730. Editorial Board: Connie Bracher, EA; Deborah St Martin, EA; Clara Barrett, EA.

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