



Chapter IdEAs

"To Promote the Professionalism and the Growth of Our Members"
CSEA Inland Empire Chapter September 2010



LYNN FREER AT THE SEPTEMBER MEETING

David DeKoekkoek, EA, Program Chair

Lynn Freer, Spidell Publishing. What else to we need to say? Lynn will present a preview of her California Tax Update at our September meeting.

Lynn "Ms. California Tax" Freer 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. Lynn will be speaking at Spidell's annual Federal and California Update Seminar. This seminar is the standard for California tax law and has been so for over 30 years.

Lynn is the editor of Spidell's California Taxletter, which is the authoritative California tax research newsletter. Spidell also publishes the "big blue book" which has become the authoritative resource book for California tax preparers.

Come and hear the latest on California tax law and what is happening in Sacramento this year as only Lynn can deliver it in her inimitable style.

PRESIDENT'S MESSAGE

Connie Bracher, EA, Inland Empire Chapter President

Question: How do you catch a Unique Rabbit?

Answer: Unique up on it!

This could be the perception by some on how CSEA marks its imprint on California Legislation. And in a way, we do unique up on it! We keep abreast of all current legislation. We employ a lobbyist in Sacramento. We have a Legislative Affairs Committee at the State level and another at our Chapter level. And we do our best to visit our legislators as often as possible and offer our "unique" expertise whenever and wherever we can.

Legislators are elected to represent their Districts – but no one ever said that they were tax experts! They just try to do their best with the resources they have at hand. It is "our" job to let them know that we could be a very valuable asset to them. We meet with their constituents every day and we listen to what tax ramifications mean to them. What better expertise than for us to bridge the gap between the legislator making laws regarding taxes and taxation and the voters (our clients) that have to live with the results of those laws.

Our Legislative Affairs Committee Chair is currently asking for volunteers to meet with our legislators in their local offices. CSEA has a program complete with a script and a package that helps us to meet with our legislators. Any and all members are invited and encouraged to participate. This meeting gives each one of us a chance to lobby with our local senator or assembly person and offer our "unique" expertise to them. And they often follow up on your invitation and appreciate the knowledge you offer them. Please contact Joel Hendriks, EA, to participate in this critical function of The Society.

I've said that I will continue to mention benefits of membership. CSEA's legislative connections are a large benefit offered to our members. For example, on September 24th, CSEA is hosting a "State Tax Liaison Meeting" in Sacramento. At this meeting will be the top managers of the SBOE, EDD, and FTB. These managers will spend the day speaking to and meeting with CSEA members in attendance. This gives us a chance to interface as a group and on a one-to-one level. As a member, you are invited to attend. As an alternative, our Chapter will have representatives at this meeting. Send your questions or comments to Sacramento with them and they will bring

back your answer.

In January, CSEA members will, once again, descend on our State Capital to introduce ourselves and our organization to our Legislators. It's a great opportunity to see our Capitol and how legislation works – and how we can play a part in it!

CSEA doesn't really "Unique Up" on Legislation! It is a planned and deliberate campaign. Our members are Tax Experts! CSEA offers us various avenues to continually grow and share our expertise. The benefits to our members of our Legislative and PAC Committees are huge! And you are a part of it!

See you at the September Meeting with another member of CSEA, Lynn Freer, EA.

Update from the Board of Directors

Pat LaRue, EA, Secretary

At the August 11 Board Meeting reports were heard from various committees and the Treasurer's Report was given.

Paul Cheatham EA shared a flyer for the upcoming "Hot Topics" Seminar. He wants to market this seminar to CTECs as well as other EAs who might want to attend. This promises to be an outstanding event. Space is limited to 80 attendees. One would not want to wait to the last minute to sign up.

Ron Uehle EA presented the financial review for the past fiscal year.

A new travel reimbursement form was introduced and approved by the Board. Additional language will be added to item 3 of the SOPs covering travel reimbursement to exclude the cost of any CPE associated with State meeting attendance. A new item 9 will be added to the SOPs covering travel reimbursement. It requires that travel reimbursement requests be submitted to the Treasurer no later than 45 days of the conclusion of the State meeting.

The Board approved sending Pam Jipp EA and Joel Hendriks EA to the next State Liaison meeting.

Joel Hendriks EA gave a brief presentation on Chapter advocacy at the general meeting. The handout provided information and tips on making contact with your legislators and their staff. Joel is our Legislative Chair.

The next meeting of the Board of Directors will be held on September 8, 2010 at the Hilton Hotel in San Bernardino.

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CHAPTER NOTES

Seminars for Continuing Education

Paul Cheatham, EA, Seminar Chair

Hot Tax Topics Seminar

The Chapter is putting on this seminar covering several relevant tax subjects. Come join us to learn from excellent speakers like Vicki Mulak about the foreclosure issues facing all of us. How did last season turn out? Any incorrect 1099 A's or C's? How did you handle them? Should you have handled them differently? Did you fill out the 982 correctly? Have you adjusted any basis? We will have four hours covering this topic. After lunch, that will be provided, we will have Steve Sims and Connie Adams the Taxpayer Advocates from the FTB and IRS discussing the issues that we are facing now and expect to face during the next filing season. How can we handle some of the problems we have encountered with the least amount of conflict with both agencies. Our final topic will be ETHICS and our compliance to Circular 230. Are we operating our businesses to mitigate our exposure to liability? Lavare Taylor will lead us in a lively presentation.

ClientWhys 2010 1040 Review and Update

It is not too late to register for the popular **ClientWhys 2010 1040 Review and Update Seminar**. The flyer was inserted in the July Newsletter. You can get more information and sign up by going to www.clientwhyscpe.com and use the coupon code IEEA-10 so the Chapter can receive credit for your sign-up.

Brass Tax 1040/540 Tune Up

Again this lively Seminar will be held at several locations: Tuesday, November 30, in Monrovia at the Courtyard by Marriott; Wednesday, December 1, at the Hilton in San Bernardino Hilton; and Friday December 17, at the Ontario Convention Center. The registration flyer will be inserted in the October Newsletter.

Remember our Chapter earns revenue for attendance at these seminars. For more information or a list of other dates and locations for **Brass Tax** or **ClientWhys** seminars call Barbara Robertson, EA at 909-466-7466.

Nominating Committee

Don Stacy EA, Chair

The Nominating Committee has been selected by the Board, and will soon be considering the slate of officers and directors for next year. The Chair is Don Stacy, EA and the members are Paul Cheatham, EA, Dave DeKoekkoek, EA, and Joel Hendricks, EA. Please contact any of the Committee with your concerns, inquiries, and desires for the leadership roles in our Chapter for the next fiscal year.

Public Information & Awareness Report

Clara Barrett, EA, Chair

Each year the Chapter takes on a project to make the public aware of what an Enrolled Agent is. Radio spots on the Bob Brinker show and a full page spread in the Inland Empire Magazine have been projects that the Chapter has undertaken. The Board has asked the PIA Committee to bring suggestions for our annual PIA project to the September Board meeting for approval. Paul Cheatham, EA, Joel Hendricks, EA, Connie Bracher, EA are members of the Committee besides myself as Chair. I have continued to work with the Inland Empire Magazine to come up with several ideas to continue the Chapter's presence in that venue; Paul is looking into a radio format; Joel is looking into other avenues; and Connie is pricing out various ideas.

The Committee welcomes input from the membership as to their ideas for getting the most bang for the Chapter's limited available resources. If you would like your opinions considered for this year's project be sure to express them to members of the Committee prior to the September Board meeting. Ideas are always welcomed by the Committee for shaping the direction of future projects.

RSVP Reminder

Jackie Kincaid, EA, Treasurer

When someone RSVP's for the Chapter Meeting and doesn't come, it is the policy of the Board that the person will be billed for the RSVP because the Chapter is charged by the Hotel for the number of people we make reservations for.

State Tax Agencies Liaison Meeting

Pam Jipp, EA, Chapter Representative

On September 24 I will be attending the State Tax Agencies Liaison Meeting. Attending the meeting sponsored by CSEA will be executives from FTB, EDD & BOE. This meeting helps CSEA members establish relationships with key personnel from these tax agencies and open communications to improve tax administration. Remember one of your member benefits assures you **representation and liaison** with the California State Legislature and with all California tax agencies, as well as the California areas and local offices of the Internal Revenue Service. As First Vice President of the Inland Empire Chapter of CSEA, I am a member of Representative of this Meeting. I invite all of you to send me to the meeting with any questions you may want me to pass along to the representatives from these agencies. I can be reached by phone @ (760) 887-5935 or by e-mail @ anhy@aol.com. I look forward to hearing from all of our members.

National Tax Practice Institute Report

Kathryn Dunn, EA

Thanks to a scholarship from NAEA-Education Foundation, I was able to attend Level 1 Representation at the National Tax Practice Institute held in Las Vegas this year. Also attending Level 1 from our Inland Empire Chapter was Pam Jipp, EA and Jackie Kincaid, EA. At the Graduate Level was Jerry Watson, EA. 2010 is the first year in many that NTPI has held its Training in a western state. I really want to compliment the instructors for their knowledge and experience when it comes to representation work. This is an area that is not a science, but an art. The experience of the staff is what makes this training so valuable. What I learned is that no matter if you are involved in collections, examination, or appeals, to be a good representative, you need to have knowledge, authority, and boldness. I am looking forward to Level 2 next year to be held again in Las Vegas August 7-10, 2011. If you are looking to improve your representation skills, any of this year attendees or Fellows of NTPI that are members of the Chapter will be happy to discuss this Program of the National Association and the availability of scholarship help to attend.

Tax Court Cases Reviews

Paul Cheatham, EA

T.C. Memo. 2010-82 The petitioner (Ms. Lam) contested the IRS's assessment of the accuracy-related penalty for 2004 (\$1,014) and 2005 (\$868) on her tax returns for these years. During these years she operated a real estate business and reported its income and Expenses on Schedule C, Profit or Loss from Business. When the IRS audited her tax returns for these years they found deficiencies of \$5,069 (2004) and \$4,339 (2005). The IRS assessed the accuracy-related penalty because Ms. Lam had included unrelated losses on a single Schedule C for each taxable year. At trial Ms. Lam repeatedly argued that they consistently filled out their tax returns using TurboTax and that she consistently confused capital gains and losses with ordinary income and expenses. Although the Court concludes that the errors in petitioners' tax preparation were made in good faith, petitioners have not established that they behaved in a manner consistent with that of a prudent person. Ms. Lam analogized her situation to that of the Secretary of the Treasury, Timothy Geithner. Citing a Wikipedia article, Ms. Lam essentially argues that, like Secretary Geithner, she used TurboTax, resulting in mistakes on her taxes. In sustaining the respondent's assessment, the Court reasoned that, "Tax preparation software is only as good as the information one inputs into it." Bunney v. Commissioner, 114 T.C. 259 (2000).

Comment: So much for the "Turbo Tax" defense.

T.C. Memo. 2010-76 The issues to be decided are the appropriate time to

amortize a covenant not to compete and whether the accuracy-related penalty is applicable. The petitioner (Recovery Group) is a "turn-around, crisis-management business" providing consulting and management services to insolvent companies, together with services as bankruptcy trustee, examiner in bankruptcy cases, and receiver in Federal and State courts. In 2002 James Edgerly, one of Recovery Group's founders, employees and minority shareholders, informed its president, Stephen Gray, that he wished to leave the company and to have his shares bought out and settle various debts between himself and the company. As a part of this separation, Mr. Edgerly signed a covenant not to compete with Recovery Group for one year. In return, Recovery Group paid Mr. Edgerly \$400,000 to sign the covenant. The IRS argued that the cost of the covenant should be amortized over 15 years as required by IRC Sec. 197. The petitioner argued that Mr. Edgerly's 23-percent interest that he redeemed was not a substantial interest and is therefore outside the reach of IRC Sec. 197. In this 43-page decision, the judge sustained the IRS's deficiency. He reasoned that the covenant was an intangible asset described in IRC Sec. 197.

As to the accuracy-related penalty, IRC Sec 6662, the judge found for the petitioner. IRC Sec. 6664(c) (1) provides that, if the taxpayer shows that there was reasonable cause for a portion of an underpayment and that it acted in good faith with respect to such portion, no accuracy related penalty shall be imposed with respect to that portion. Whether the taxpayer acted with reasonable cause and in good faith depends on the pertinent facts and circumstances. In finding for the petitioner, the judge cited the fact that the firm's CPA (Mr. Orleans) was involved with the buyout agreement from the beginning and that the tax partner for the CPA firm (Mr. Troy) were competent professionals with sufficient expertise. Further, that the partners in Recovery Group were not tax experts and hired accountants to insure that tax returns were properly filed.

Comments: I found this case to be interesting because the company was required to amortized the cost of the covenant not to compete over 15 years, even though the covenant was only for one year!!!

T.C. Summary Opinion 2010-51 The issues to be determined were whether petitioner: (a) Had unreported income from eBay sales in 2004 & 2005; (b) is entitled to deduct purchases and claim expenses in connection with her eBay sales activity in excess of amounts respondent allowed; and (c) is liable for accuracy-related penalties for 2004 and 2005 under section 6662(a).

Petitioner (Andrea Fabiana Orellana) resided in California where she was (and apparently still is) employed by the IRS as a Revenue Officer. Because she worked for the IRS and her returns contained substantial amounts of unreported income, these years became the subject of a criminal investigation. Finding insufficient proof for criminal prosecution, criminal charges were not filed. The amount of unreported income for 2004 was \$15,321 and for 2005 was \$21,062. These amounts were determined based on subpoenaed records from eBay, PayPal and banks.

Ms. Orellana argued that she did not consider herself to be in "business" and therefore did not think she was required to maintain records to account for the gross receipts from online sales. It is worth noting that between 2000 and 2005 she engaged in over 7,000 eBay transactions. She testified that she did not understand why respondent so persistently asked for proof of her costs and expenses. Further, that her eBay sales were of her personal items, including some wedding gifts, which is why she did not keep receipts. In ruling for the respondent with regard to the expenses, the Court found that her documentary evidence consisted of a "disorganized hodgepodge" of records. Further, that, "Petitioner has not produced any coherent evidence from which the Court can determine the bases for the hundreds of items she sold...beyond those respondent allowed." With regard to the accuracy-related penalty, the Court commented that, "Petitioner's attitude toward the preparation of her tax returns appeared to be cavalier." The Petitioner testified that she, "had prepared 1040s since she was 16" and that she would "never look at the instructions" for preparing the return. Not surprisingly, the assessment of the accuracy-related penalty was sustained.

Mark Your Calendars!!

Wednesday, September 8, 2010

Chapter Meeting — "California Update," Lynn Freer, EA

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

Dinner choice of Vegetarian Plate or Meat Lasanga, Cesar Salad, Vegetables, Garlic Bread Sticks and Dessert

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

September 24 -26, 2010

CSEA Board Meeting, Sacramento, CA

Friday, January 7, 2011

CSEA Legislative Day, Sacramento, CA

Wednesday, September 29, 2010

Brass Tax "Stocking Your Tax Tool Box", Ontario Convention Center

January 8-9, 2011

CSEA Board Meeting, Sacramento, CA

Wednesday, October 13, 2010

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

Thursday, January 13, 2011

CSEA Tax Practitioner Seminar, San Bernardino Hilton

Tuesday, October 19, 2010

Hot Topics Seminar, San Bernardino Hilton

Wednesday, May 11, 2011

Chapter Meeting: Attorney Dean I. Friedman

November 4 & 5, 2010

ClientWhys Seminar 2010 1040 Review & Update Ontario Hilton

May 10-12, 2011

CSEA Super Seminar, Bally's, Las Vegas, NV

Wednesday, November 10, 2010

Chapter Meeting: Bankruptcy & Bus Tax, Attorney Fred Cohen

June 2-4, 2011

CSEA Super Seminar, Grand Sierra Resort & Casino, Reno, NV

Tuesday, November 30, 2010

Brass Tax "1040/540 Tune Up", Monrovia, Courtyard by Marriott

Wednesday, June 8, 2011

Chapter Meeting:

Wednesday, December 1, 2010

Brass Tax "1040/540 Tune Up", San Bernardino Hilton

June 21-24, 2011

CSEA Annual Meeting, hosted by San Gabriel Chapter, Southern California

Wednesday, December 8, 2010

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

Friday, December 17, 2010

Brass Tax "1040/540 Tune Up", Ontario Convention Center

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@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 909-533-2159 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.

Register for ClientWhys 2010 1040 Review and Update www.clientwhyscpe.com using the code IEEA-10

Register for Hot Tax Topics Seminar using inserted Form or at www.ietaxpro.com

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

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