



# The Accountant

Official Publication

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Post Office Box 1126, Conover, NC 28613

828-695-2520 or 866-755-NCSA FAX: 828-695-2522

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## A Message From The President

Jan Allison

February has come and gone, and before we know it, it will be time for another convention.

This past month we lost a very dear member from the Cape Fear Chapter. James Nance passed away leaving his wife Barbara, his daughter Missy and his mother, Cathleen. We also lost a dear friend's mother. John Ayers, who has taught many seminars for the NCSA, lost his mother this past month as well. Please continue to keep these families in your prayers.

The May board meeting will be held in Black Mountain, on Saturday, May 22. It will be held at the Black Mountain Masonic Lodge hall starting at 11:00 a.m. with a lunch provided by my family. The board meeting will start at 1:00 p.m.. I will be sending directions to all of the Board and Officers and will need an RSVP from all attending.

I sincerely hope that tax season is prosperous for you all. Thanks for all of your calls and prayers during Ricky's recent hospital visits.



Jan H. Allison

## 2004 NCSA Convention

Jense Haynes

The NCSA Annual Convention will be held at the Hilton Charlotte and Towers June 20-22. The hotel is at 222 E Third Street in Charlotte. Rooms reserved under NCSA are \$99 per night. For reservations, call (704) 377-1500.

Sunday evening, June 20, after vespers, the President's Reception will be outside the Hilton Hotel in beautiful downtown Charlotte.

David Rollins has agreed to be in charge of the golf. This is scheduled tentatively at the normal time, Monday afternoon, June 21.

Monday evening our theme is "The County Fair." We have a professional "Fair Person" assisting us. The meal will be barbecue and fixings. We are begging for homemade items that you can donate to the society. Please, no cows or sheep.

After the Country Fair, The Fantastic Shakers, the best beach band on the east coast, will play. They are known as the "South's Finest Show Band." This is possibly the best Monday night entertainment we have ever had for a convention. Everyone bring your "shag shoes."

The Past Presidents meal will be lunch on Tuesday, June 22.

## Chapter News

### Hickory

The February meeting was held at Prime Sirloin in Hickory on February 23, 2004, with 5 members and 1 guest attending. The program was a tax roundtable.

### Charlotte

The January 26th meeting was held at Buffet Dynasty, with Don Ruff, Regional Tax Manager of the ESC, speaking. He discussed issues pertaining to voluntary contributions, on-line filing, independent contractor vs. employee issues, and casual/temporary labor.

### Cape Fear

The February 17th meeting was cancelled due to inclement weather. The speaker from the U.S. Department of Labor has rescheduled for Monday, March 22, 2004, at 6:30 pm. The meeting will be held at Heath's Steakhouse in Dunn, NC.

### Burlington

The February meeting was cancelled due to bad weather.

NEWS IS A FLEETING THING. WE CAN ONLY REPORT WHAT WE ARE TOLD. PLEASE MAKE SURE YOUR CHAPTER IS SHARING WITH *The Accountant* .

## Good News for Qualified Dividends

In IR-2004-22, the IRS has agreed to make certain provisions of the Tax Technical Corrections Act of 2003 related to dividend income available to taxpayers in advance of its passage. These provisions will be of particular interest to certain mutual fund shareholders and other investors who are completing their 2003 tax returns.

The Chairmen and Ranking Members of both the House Ways and Means Committee and the Senate Finance Committee have advised the IRS that they plan to enact legislation to make the technical corrections in the Act effective for dividends received beginning January 1, 2003. To reduce the burden of requiring amended dividend statements to investors, who might have to amend their tax returns, the IRS has agreed to let all taxpayers apply the technical corrections in Section 2 of the Act as if the legislation were enacted already.

The Act will allow partnerships, S corporations, estates, and revocable trusts treated as part of an estate on a fiscal year that began in 2002 to pass through dividends received in 2003 to their partners, shareholders, and beneficiaries as dividends qualifying for the lower tax rates, to the extent that the dividends otherwise are qualified.

The Act also will change the holding period test for qualified dividends. To qualify for the lower tax rates, the taxpayer now must hold the dividend-paying stock for at least 61 days during the 121-day period (instead of the old 120-day period) beginning 60 days before the ex-dividend date. A stock bought on the last day before the ex-dividend date still can meet the holding period for that dividend, since there are 61 days left in the 121-day period. A stock sold on the ex-dividend date also can meet the test, since that is the 61st day in the period. So, if a taxpayer holds a stock for at least 61 continuous days, the holding period test will be met.

A similar holding period exists for preferred stock dividends attributable to a period exceeding 366 days. This holding period is at least 91 days during a 181-day period beginning 90 days before the ex-dividend date.

Mutual funds, other than regulated investment companies, and real estate investment trusts that pass through dividend income to their shareholders must meet the holding period test for the dividend-paying stocks that they hold in order for corresponding amounts that they pay out to be reported as qualified dividends. Investors then must meet the test relative to the shares that they hold directly.

## Abusive Tax Shelter Schemes Involving Employee Retirement Plans

As part of its effort to combat abusive tax shelter schemes and transactions, the IRS launched a new section on IRS.gov containing important information about abusive schemes involving employee retirement plans. The site is intended to warn promoters and plan professionals about the consequences of participating in such schemes.

The new employee plans (EP) information is located in the Retirement Plans section under “EP Abusive Tax Transactions.” In the new section, the IRS identifies so-called “listed transactions” involving employee retirement plans. It also provides recently issued guidance — such as Treasury regulations and IRS revenue rulings — intended to shut down transactions the IRS deems abusive.

“Employees and retirees count on the reliability of employee plans, which are overseen by the IRS,” said Commissioner Mark Everson. “We’re providing this information so law-abiding plan professionals and participants can avoid being duped by promoters of abusive schemes that endanger the integrity of employee retirement plans.”

The Treasury Department recently identified as listed transactions a scheme involving indirect contributions to Roth IRAs and one involving S corporation ESOPs (employee stock ownership plans). A listed transaction is one that is identical or substantially similar to one the IRS has determined to be a tax avoidance transaction by published guidance.

The new section also provides contact information for reporting suspected abusive transactions to the IRS. Address on IRS.gov: <http://www.irs.gov/retirement/article/0,,id=118821,00.html>.

## IRS Offering a Penalty Rebate for Enrolling in EFTPS

The IRS announced nationwide implementation of the FTD-EFTPS penalty refund offer. This offer allows paper coupon users who were assessed a Form 941 deposit penalty the opportunity to receive a one-time penalty refund. To qualify, the employer must:

- use EFTPS for one year (four consecutive quarters)
- make all their Form 941 payments on time and
- fully pay the penalty.

In April 2005, after the returns are filed for the fourth quarter of 2004, the IRS will determine automatically which employers have achieved the 4 quarters of EFTPS compliance and reverse the taxpayer’s most recent full-paid FTD penalty. The refunds will be issued on a quarterly basis following the scheduled Form 941 due dates.

The IRS computer will look back up to 4 quarters prior to your 4-quarter compliance period for a fully paid FTD penalty to refund. The IRS computer automatically will refund the penalty if you qualify. For example, if you use EFTPS for all four quarters in 2004, the computer will look back as far as the quarter beginning January 1, 2003, for a full paid FTD penalty.

## Annual Report Reminder

The NC Secretary of State reminds us that LLC and LLP Annual Reports are due by April 15. The report may be filed on line by going to [www.sosnc.com](http://www.sosnc.com) and selecting "Click Here to File Annual Reports Online." Search for the Business Entity Name and complete the four screens. Submit the final report, and choose your payment method or print the form.

## **IRS & States Fight Against Abusive Tax Avoidance**

IRS officials announced that they have started sharing leads on more than 20,000 taxpayers engaged in abusive tax avoidance with tax agencies in 45 states, including North Carolina. The IRS also announced the latest results of another effort to combat abusive tax avoidance, the Offshore Voluntary Compliance Initiative.

The sharing of leads was the first large transfer of information under the terms of the new IRS-state partnership unveiled in September. More than 20,000 audit leads and other information have been shared with the states, and more information will be shared in the future.

"Combating the use of abusive tax avoidance schemes by high-income individuals and others is a top enforcement priority," said IRS Commissioner Mark Everson. "Coordinating our casework and sharing leads with the states is an important way to extend the reach of the IRS and help the states."

The initial leads transferred to states involved scams using offshore transactions, abusive trusts, employee leasing, home-based businesses, employment taxes, and other tax-avoidance schemes. The IRS, states, and cities subsequently will share information on any resulting tax adjustments from the audits allowing them to piggyback on the results of each other's work. The process allows the agencies to leverage resources by greatly decreasing the possibility of two or even three tax agencies performing a lengthy examination of the same taxpayer.

The IRS also announced the latest results of its Offshore Voluntary Compliance Initiative (OVCI). More than 1,300 taxpayers applied to OVCI, and so far the initiative has yielded more than \$170 million in taxes, interest, and penalties to the U.S. Treasury. In addition, the effort led to obtaining the names of 479 scheme and scam promoters. Nearly half of these promoters were previously unknown to IRS investigators.

Under the terms of this 2003 initiative, taxpayers came forward, amended their returns, paid taxes, interest and penalties, and furnished the IRS with information regarding the person who promoted the offshore arrangements to them. Interested persons had from January 14 to April 15, 2003, to step forward. If accepted by OVCI, eligible taxpayers could avoid criminal prosecution and some penalties.

## **CHECK CAREFULLY OFFERS IN COMPROMISE**

In IR-2004-17, the IRS issued a consumer alert advising taxpayers to beware of promoters' claims that tax debts can be settled for "pennies on the dollar" through the Offer in Compromise Program. Some promoters are inappropriately advising indebted taxpayers to file an Offer in Compromise (OIC) application with the IRS. This bad advice costs taxpayers money and time. An OIC is an agreement between a taxpayer and the IRS that resolves the taxpayer's tax debt. The IRS has the authority to settle, or "compromise," federal tax liabilities by accepting less than full payment under certain circumstances.

"This program serves an important purpose for a select group of taxpayers. But we are increasingly concerned about unscrupulous promoters charging excessive fees to taxpayers who have no chance of meeting the program's requirements," said IRS Commissioner Mark Everson. "We urge taxpayers not to be duped by high-priced promises."

The OIC may be considered only after other payment options have been exhausted. If taxpayers are unable to pay their taxes in full, there are other payment options, such as monthly installment agreements, that must be explored before an OIC can be submitted.

The [IRS.gov](http://IRS.gov) web site contains complete information on the collection process and payment options.

Some taxpayers may be exempt from the \$150 OIC fee depending on income or whether the OIC is based solely on doubt as to tax liability. Taxpayers who claim the poverty guideline exception must certify their eligibility using Form 656-A, Income Certification for Offer in Compromise Application Fee. The poverty guideline exception applies only to individuals.

## **NC Refund Inquiry Line**

The NC Department of Revenue wants you to be aware of its new toll-free telephone number for checking the status of 2003 NC refunds. It is an automated refund inquiry line at (877) 252-4052. Call it if you want to check the status of your state refund.

## **Abusive Life Insurance Policies in Retirement Plans**

The IRS issued guidance to shut down abusive transactions involving specially designed life insurance policies in retirement plans, "section 412(i) plans." The guidance designates certain arrangements as "listed transactions" for tax-shelter reporting purposes. A "section 412(i) plan" is a tax-qualified retirement plan that is funded entirely by a life insurance contract or an annuity. The employer claims tax deductions for contributions that are used by the plan to pay premiums on an insurance contract covering an employee. The plan may hold the contract until the employee dies, or it may distribute or sell the contract to the employee at a specific point, such as when the employee retires.

The guidance covers three specific issues. First, a set of new proposed regulations states that any life insurance contract transferred from an employer or a tax-qualified plan to an employee must be taxed at its full fair market value. Some firms have promoted an arrangement where an employer establishes a section 412(i) plan under which the contributions made to the plan, which are deducted by the employer, are used to purchase a specially designed life insurance contract. Generally, these special policies are made available only to highly compensated employees. The insurance contract is designed so that the cash surrender value is temporarily depressed, so that it is significantly below the premiums paid. The contract is distributed or sold to the employee for the amount of the current cash surrender value during the period the cash surrender value is depressed; however, the contract is structured so that the cash surrender value increases significantly after it is transferred to the employee. Use of this springing cash value life insurance gives employers tax deductions for amounts far in excess of what the employee recognizes in income. These regulations, which will be effective for transfers made on or February 13, 2004, will prevent taxpayers from using artificial devices to understate the value of the contract. A revenue procedure issued February 13 along with the proposed regulations provides a temporary safe harbor for determining fair market value.

Second, a new revenue ruling states that an employer cannot buy excessive life insurance (i.e., insurance contracts where the death benefits exceed the death benefits provided to the employee's beneficiaries under the terms of the plan, with the balance of the proceeds reverting to the plan as a return on investment) in order to claim large tax deductions. These arrangements generally will be listed transactions for tax-shelter reporting purposes.

Third, another new revenue ruling states that a section 412(i) plan cannot use differences in life insurance contracts to discriminate in favor of highly paid employees.

## **NCSA Schedule of Events**

### **2004**

April 30-May 1-**Low Country Tax Release**-  
Holiday Inn, Jekyll Island, GA

May 23-**Board of Directors meeting**-1 p.m.  
Masonic Lodge, Black Mountain

June 20-**Board of Directors meeting**-Hilton Towers, Charlotte

June 21-23-**Annual Convention**-Hilton Towers, Charlotte

July 24-**Leadership Conference**-Radisson High Point

August 28-30-**NSA Convention**-San Antonio, TX

August 31-September 2-**IRS Forum**-San Antonio, TX

September 19-**Board of Directors meeting**-Coast

September 20-21-**Fall PAS**-Coast

October-**Tax Forum meeting with IRS**-Greensboro

November-**Board of Directors meeting**-Greensboro

November-**PTI**-Greensboro

### **2005**

May 22-**Board of Directors meeting**-Greensboro

May 24-25-**Spring PAS**-Greensboro

June 19-22-**Annual Convention**-Myrtle Beach, SC

## **2003-2004 OFFICERS**

**PRESIDENT – JAN H. ALLISON**  
P.O. Box 1111  
Black Mountain, NC 28711-1111  
828-669-9300

**PRESIDENT-ELECT – RHONDA H. MARSH**  
1807 Morgan Hill Road  
Monroe, NC 28110  
704-289-5155

**VICE-PRESIDENT – FLORENCE W. BLACK**  
P.O. Box 53488  
Fayetteville, NC 28305-3488  
910-484-3800

**SECRETARY – WAYNE O. PARKER**  
3617 Old Lexington Road  
Winston Salem, NC 27107  
336-784-4160

**TREASURER – STEPHEN METELITS**  
77 Fearington Post  
Pittsboro, NC 27312  
919-933-0724

**IMMEDIATE PAST PRESIDENT – STEVEN G. PACE**  
2612 North Main Street  
High Point, NC 27265  
336-869-0164

**ASSOCIATION OFFICE**  
Candace Cansler, Executive Director  
866-755-NCSA(6272) toll-free  
828-695-2520 (v) 828-695-2522 (f)

**THE ACCOUNTANT EDITOR – STEPHEN METELITS**  
metelits@usa.net

North Carolina Society of Accountants  
Post Office Box 1126  
Conover, NC 28613  
[www.ncsainc.org](http://www.ncsainc.org) *Address Service Requested*