

THE Wisconsin - Accountant

2009 Seminars

May 8
Bob Jennings
Technology Seminar
Green Bay
Radisson Hotel
(800) 333-3333

June 16-17
Prof. John Connors
Partnerships & Depreciation
Madison
Sheraton Hotel
(608) 251-2300

September 21-22
WAA Annual Convention
La Crosse
Radisson Hotel
(608) 784-6680

October 19-20
Federal Tax Update
Wausau
Stoney Creek Inn
(715) 355-6858

November 2-3
Gear Up 1040
Waukesha
Country Springs Hotel
(800) 247-6640

November 16
Gear Up Business Entities
Madison
Sheraton Hotel
(608) 251-2300

November 30 - December 1
Gear Up 1040
Hudson House Inn
(715) 386-2394

Wisconsin Association of Accountants ■ 1-800-237-4080 - 715-425-0482 - www.wiassociationofaccountants.com

IRS Speeds Lien Relief for Homeowners Trying to Refinance, Sell

Submitted by The IRS Newswire



WASHINGTON — The Internal Revenue Service today announced an expedited process that will make it easier for financially distressed homeowners to avoid having a federal tax lien block refinancing of mortgages or the sale of a home.

If taxpayers are looking to refinance or sell a home and there is a federal tax lien filed, there are options. Taxpayers or their representatives, such as their lenders, may request that the IRS make a tax lien secondary to the lien by the lending institution that is refinancing or restructuring a loan. Taxpayers or their representatives may request that the IRS discharge its claim if the home is being sold for less than the amount of the mortgage lien under certain circumstances.

The process to request a discharge or a subordination of a tax lien takes approximately 30 days after the submission of the completed application, but the IRS will work to speed those requests in wake of the economic downturn.

“We don’t want the IRS to be a barrier to people saving or selling their homes. We want to raise awareness of these lien options and to speed our decision-making process so people can refinance their mortgages or sell their homes,” said Doug Shulman, IRS commissioner.

“We realize these are difficult times for many Americans,” Shulman said. “We will ensure we have the resources in place to resolve these issues quickly and homeowners can complete their transactions.”

Filing a Notice of Federal Tax Lien is a formal process by which the government makes a legal claim to property as security or payment for a tax debt. It serves as a public notice to other creditors that the government has a claim on the property.

In some cases, a federal tax lien can be made secondary to another lien, such as a lending institution’s, if the IRS determines that taking a secondary position ultimately will help with collection of the tax debt. That process is called subordination. Taxpayers or their representatives may apply for a subordination of a federal tax lien if they are refinancing or restructuring their mortgage. Without lien subordination, taxpayers may be unable to borrow funds or reduce their payments. Lending institutions generally want their lien to have priority on the home being used as collateral.

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Be watching for the
2009 Seminar Schedule
due to arrive in your mailbox later this month.



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Executive Corner . . .

The new year is here and with that soon our busy season gives us the opportunity to put into practice all we learned this fall at the various seminars. Whether you attended one or more of our seminars or a different tax seminar, our clients are why we take time out of our busy schedules to attend and pay attention to the speakers to bolster our knowledge. Attendance at our fall seminars was good. Our 2009 calendar of events will be mailed in January – you will notice a new improved look to all of our seminar brochures this year! Please mark your calendar now to attend the 2009 seminars.



**Byron Dopkins,
Executive Director**

Our spring seminar will be another great seminar – Bob Jennings Technology – software, hardware, office gadgets, procedures and even a little practice management. Everyone leaves that seminar with new ideas and plans for their office.

Have a great new year!

Byron L Dopkins, EA ABA ECS
WAA Executive Director

From the President . . .

Another month has gone by as your president, seems to be going fast. Early in December, we had a state board meeting in Madison. I must say I am still impressed with the enthusiasm I get from our board. We constantly question our approach to this organization to ensure the best possible job is being done for you, our members.



**Jim Molenda,
President**

We consider the presentation of seminars as one of our most important functions. This month, our long range planning committee proposed tracking the context of our seminars over the past few years and project an outline for future seminars to assure we present current topics without repetition.

If you have any projects, thoughts or “whatever”, regarding our association, let us hear from you.

Tax season is upon us so let's move forward with what we do best. I'm sure we all thrive on the long hours and incredible pressure we put on ourselves. We are professionals, so lets act accordingly.....be kind and considerate first to ourselves, which will then trickle down to our clients allowing us to enjoy this tax season.

With all of this wonderful winter weather, don't forget about the NSA National Convention August 12th to the 15th, 2009 in San Diego.

Jim Molenda, EA
WAA President



IRS Speeds Lien Relief for Homeowners Trying to Refinance, Sell

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To apply for a certificate of lien subordination, people must follow directions in Publication 784, How to Prepare an Application for a Certificate of Subordination of a Federal Tax Lien. Again, there is no form but there must be a typed letter of request and certain documentation. The request should be mailed to one of 40 Collection Advisory Groups nationwide. See Publication 4235, Collection Advisory Group Addresses, for address information.

Taxpayers or their representatives may apply for a certificate of discharge of a tax lien if they are giving up ownership of the property, such as selling the property, at an amount less than the mortgage lien if the mortgage lien is senior to the tax lien. The IRS may also issue a certificate of discharge in other circumstances if the taxpayer has sufficient equity in other assets, can substitute other assets, or is able to pay the IRS its equity in the property. Without a tax lien discharge, the taxpayer may be unable to complete the home ownership change and the ownership title will remain clouded.

To apply for a tax lien discharge, applicants must follow directions in Publication 783, Instructions on How to Apply for a Certificate of Discharge of a Federal Tax Lien. There is no form but there must be a typed letter of request and certain documentation. The request should be mailed to one of 40 Collection Advisory Groups nationwide. See Publication 4235 for address information.

The IRS also urges people to contact the agency's Collection Advisory Group early in the home sale or refinancing process so that it can begin work on their requests. People sometimes delay informing lenders of the tax liens, which only serves to delay the transaction.

Currently, there are more than 1 million federal tax liens outstanding tied to both real and personal property. The IRS issues more than 600,000 federal tax lien notices annually.

IRS' January Tax Talk Today Focuses on Filing Season

Submitted by The IRS Newswire

WASHINGTON — The Internal Revenue Service's next Tax Talk Today program, "Getting Ready for Filing Season 2009 – Individual and Business," will be Tuesday, Jan. 13, at 2 p.m. This special, 100-minute program will give tax preparers a head start on the 2009 filing season.

The extended program will discuss updates to tax forms, the latest tax law changes and IRS processing issues to assist tax preparers. Panelists will offer tips on how to avoid common errors that can cost preparers and their clients time and money. Two continuing education credits will be offered for January's program.

Panelists include: Nancy Aiello, Submission Processing Director, IRS, Andover; Susan A. Hansen, Submission Processing, IRS, Cincinnati; Virginia Tarris, IRS, Supervisory Tax Law Specialist, Tax Forms and Publications; William Woolf, IRS, Tax Law Specialist, Tax Forms and Publications; Teddy Prioleau, EA, Baltimore, Md., and Francis X. Degen, EA, owner of Francis X. Degen, EA, in Setauket, N.Y. The moderator is Les Witmer.

Tax Talk Today is a webcast aimed at educating tax and payroll professionals on the most current and complex tax issues. Tax professionals are encouraged to watch and submit questions. To access the webcast at no charge, viewers can register online at taxtalktoday.com.

Subscribers can view live webcasts as well as archived programs, listen to audio podcasts or read show transcripts. Subscribers also can order audio and video recordings. A transcript and audio of the Nov. 4, 2008 webcast, "Preparing for the New Form 990", is now available at Tax Talk Today's archives.

The next Tax Talk Today program, "Surviving the IRS Audit," is scheduled for Tuesday, March 10.

WAA Benefits

- Seminars and Educational Forums
- Accreditation
- Local Chapter Involvement
- Government Agency Liaison
- Monitor Legislation
- Insurance Programs
- Accountants Protection Plan

WAA Objectives

- To raise professional standards and improve the practice of accountancy.
- To strive for excellence in the profession.
- To encourage accountants in a continuing program of professional development.
- To foster increased recognition for the professional in the public, private and educational sectors of our state.
- To initiate legislative action and provide government liaison between the accounting profession and government leaders.
- To provide meetings and fellowship for accountants.
- To promote the highest standard of ethical conduct among its member.



QUOTE OF THE MONTH

"When wealth is lost, nothing is lost;
When health is lost, something is lost;
When character is lost, all is lost!"

Special Pricing for the WAA



Our association receives a donation for each product purchased under this special discount code - and you receive a discounted price on every product! The WAA discount code is G850. Go to quickfinder.thompson.com to place your order.

Determining When a Year-end Charitable Contribution Is Made

Ordinarily, a charitable contribution is considered made at the time of delivery. If payment is made by check, the contribution is considered made on the date of delivery or mailing, assuming the check subsequently clears [Reg. 1.170A-1(b); Ltr. Rul. 9141011].

Contribution of Stock Certificate

If a taxpayer delivers or mails a properly endorsed stock certificate to a charitable donee, the donation is considered made on the date of delivery to the charity or, if mailed, on the date of mailing. If the donor delivers the stock certificate to his bank or broker (as the donor's agent) or to the issuing corporation or its agent, the contribution is completed when the stock is transferred on the books of the corporation [Reg. 1.170A-1(b)].

A 2007 IRS information letter to U.S. Senator Charles Schumer discussed the tax consequences of a delay in the execution of taxpayer's instructions to transfer stock to a charity (INFO 2007-0035). The Senator's constituent said that she instructed her agent to transfer stock to a charity. However, a delay in the transfer affected her ability to claim a charitable deduction. She thought that the rules should not distinguish between a donor who transfers stock to a charity and a donor who instructs his or her agent to do so.

The IRS cited the before-mentioned Reg. 1.170A-1(b) for the proposition that a charitable contribution of stock is considered to be made at the time the donor delivers a properly endorsed stock certificate to the charity or the charity's agent. The regulation further provides that if the donor delivers the stock certificate to the donor's agent for transfer into the name of the charity, the gift is completed on the date the stock is transferred to the charity on the books of the corporation.

According to INFO 2007-0035, the distinction in the regulation reflects the general rule that an agent acts on behalf of (and is controlled by) the agent's principal. If a donor delivers stock to the charity's agent for transfer to the charity, the agent receives the stock for the charity. So, the charity has immediate control over the stock. But if the donor delivers stock to his or her own agent for transfer, the charity does not obtain control over the stock until it is transferred to the charity on the books of the corporation.

As noted in Chapter 26 of PPC's 1040 Deskbook, in one case [Roger Morrison, TC Memo 1987-112 (1987)], the gift was considered to be complete when stock registered in street name (name of the brokerage firm) was transferred on the books of the stockbroker. But in another case, when the stock was delivered to a broker acting as the agent of the donee, the contribution was effected without regard to the time the transfer was recorded on the corporation's books [Robert Richardson, TC Memo 1984-595 (1984)].

If the donor retains a power to revoke the gift before its actual transfer, the gift is not complete until it is actually transferred (Rev. Rul. 54-135, 1954-1 CB 205).

For example, assume that on December 22, 2008, Ingrid instructed her broker to transfer 1,000 shares of Macrosoft stock (registered in street name) to Enormous State U. (The broker had physical possession of the stock.) The transfer was completed on January 5, 2009, the date it was transferred on the broker's books.

The contribution was not made when Ingrid directed her broker to transfer the stock because it was not placed beyond her control until it was transferred on the stockbroker's books. Ingrid can't claim a deduction for the contribution of the stock until 2009. The amount of the charitable contribution will be the FMV of the stock on January 5, 2009 (generally, the mean of the highest and lowest quoted selling price on that day—see Key Issue 26D of PPC's 1040 Deskbook)

Tendered Stock

Taxpayers donating stock subject to a cash tender offer can be taxed on the stock gain. For example, in *Ferguson v. Comm.* [83 AFTR 2d 99-1775 (9th Cir. 1999)], taxpayers donated stock that was subject to a cash tender offer. When the stock was donated, the shareholders and directors of both companies had already agreed to a cash merger and there was no realistic probability that the merger would be abandoned or stopped by a regulatory agency. The Tax Court ruled, and the 9th Circuit agreed, that the merger was a forgone conclusion at the time of the contribution and the income associated with the stock (i.e., the tender price over the taxpayer's basis) was taxable to the donor.

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Determining When a Year-end Charitable Contribution Is Made

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If a donation is delayed until after there is a “ripening” of the right to receive cash (or other property), as is the case of gifted stock for which a tender offer has been finalized, or there has been an adoption of a liquidation or merger plan, the tax deduction may not be maximized. Although the charitable deduction will remain the same, the unrealized appreciation will be deemed to be realized by the donor and subject to income tax under the “anticipatory assignment of income” doctrine.

Contributions by Credit Card

An increasingly common form of making a contribution is by credit card. Contributions charged to a credit card are deductible in the year the charge is made, even though not paid until the following year (Rev. Rul. 78-38, 1978-1 CB 67).

Furthermore, a charitable contribution deduction is allowed for the portion of rebated credit card purchases transferred to a qualified charity (Ltr. Rul. 9623035). However, unlike contributions charged to a credit card, these rebate contributions are not actually made by the use of the card. Rather, they are held by the credit card company in a custodial account for disbursement to charity. Accordingly, the charitable contribution is made (and deductible) when the rebates are transferred to the designated charity.

To be deductible, the taxpayer must have the choice of donating the rebate or receiving it himself. This means a credit card company’s automatic transfer of a certain percentage of the taxpayer’s charges to charity is nondeductible, even if the taxpayer designates the charity, since that amount was never available to the taxpayer (Ltr. Rul. 200228001).

Cardholders will normally receive a periodic statement from the credit card company showing the amount transferred to charity on their behalf and when the transfers occurred. If the amount transferred at one time is \$250 or more, the taxpayer must receive a written acknowledgment from the charity before a deduction is allowed (Ltr. Rul. 199939021). The credit card company will normally provide the charity with the name and address of the taxpayer. However, in some instances, it may be necessary for the taxpayer to follow up with the credit card company and/or charity to ensure receipt of all the information necessary for claiming the charitable contribution deduction.

Guidelines for Monetary Donations

According to IRS News Release IR-2008-138, to deduct a charitable donation of money, regardless of amount, a taxpayer must have a bank record or a written communication from the charity showing the name of the charity and the date and amount of the contribution. Bank records include canceled checks, bank or credit union statements, and credit card statements. Bank or credit union statements should show the name of the charity, the date, and the amount paid. Credit card statements should show the name of the charity, the date, and the transaction posting date.

Donations of money include those made in cash or by check, electronic funds transfer, credit card, and payroll deduction. For payroll deductions, the taxpayer should retain a pay stub, Form W-2, or other document furnished by the employer showing the total amount withheld for charity, along with the pledge card showing the name of the charity.

These requirements for monetary donations do not change or alter the long-standing requirement that a taxpayer obtain an acknowledgment from a charity for each deductible donation (either money or property) of \$250 or more. However, one statement containing all of the required information may meet the requirements of both provisions.

Concluding Thought

In News Release IR-2008-138, the IRS recommends that taxpayers verify that the organization is qualified, since only donations to qualified charities are tax-deductible. IRS Publication 78, which is available online and at many public libraries, lists most organizations that are qualified to receive deductible contributions. The searchable online version can be found at www.irs.gov under “Search for Charities.” However, churches, synagogues, temples, mosques and government agencies are eligible to receive deductible donations, even though they often are not listed in Publication 78.

WI Department of Revenue announces Filing Frequency Changes and Where to Find Filing Frequency

Each year the department runs an annual scan process that evaluates the amount of withholding tax deposits and/or total sales and use tax and may adjust a taxpayer’s periodic filing frequency accordingly. The annual scans ran on December 12, 2008. A letter was mailed to each taxpayer that had a change to filing frequency for either sales and use tax or withholding. The threshold amounts used to determine filing frequency are as follows:

Sales and Use Tax

Early Monthly: \$14,401 or more

Monthly: \$2,401 - \$14,400

Quarterly: \$301 - \$2,400

Annual: \$300 or less

Withholding

Semi-Monthly: \$20,001 or more

Monthly: \$2,401 - \$20,000

Quarterly: \$301 - \$2,400

Annual: \$300 or less

To find out the filing frequency for your clients, you can call the department using the Tax Practitioner Dedicated Phone Line: 608-261-5199 or by using the Tax Practitioner Email: DORtaxpractitioners@revenue.wi.gov

Starting in early February, you will be able to access this information directly using the new My Tax Account online application. Details on how to use this new application will be shared with taxpayers and tax practitioners closer to the implementation date.



Underreporting of Income: IRS Wants YOUR Input

As you have heard and read, the Congress and the Administration are trying to figure out better ways to close the so-called "tax gap" – the difference between the amount owed and the amount actually paid – especially in a cash economy. Those better ways may have minimal impact on tax preparation professionals or they may be more cumbersome, inefficient or costly than you can imagine. You can help decide. The IRS Small Business/Self Employed Division has requested practitioner input in an online survey, the primary objectives of which will be to:

- Determine how to better work with tax professionals to increase compliance in the cash economy through education and outreach.
- Get ideas or suggestions for reducing the underreporting tax gap in the cash economy.
- Gather feedback from tax professionals about their experience with cash-based small business or self-employed taxpayers.

The IRS has hired the Mitre Corporation to independently collect and analyze the information submitted through the survey and provide the results to SB/SE Research. Each participant of the survey will remain anonymous.

You can access the web-based survey at the following weblink: http://chrome.osis.gov/cash_econ/index_cookie.html. The link will be available from December 8, 2008 until January 9, 2009, or until 2,500 responses are received. Once the Mitre Corporation receives 2,500 responses, the survey will no longer be available. The IRS has requested one response per participant.

Fewer Taxpayers Owe Greater AMT Liability, According to IRS Statistics of Income Bulletin

The amount of alternative minimum tax reported on individual filings in tax year 2006 increased \$4.1 billion, despite a drop in the number of taxpayers who reported an AMT liability, the Internal Revenue Service's fall 2008 Statistics of Income Bulletin said.

The 23.8 percent increase pushed the AMT liability to \$21.6 billion, according to the IRS News Release announcing the release of the Bulletin. However, the number of filings that included a liability decreased by 1 percent between tax years 2005 and 2006.

The Bulletin, Individual Income Tax Returns, 2006, which examined 138.4 million such filings, also found \$1 trillion in total income tax. Tax year 2006 marked another \$8 trillion in adjusted gross income losses and \$5.6 trillion in taxable income, both increases from 2005.

Other Bulletin articles detailed sole proprietorship returns, partnership returns, and tax-exempt bonds, all for tax year 2006; charities, labor and agricultural, and other tax-exempt organizations for tax year 2005; and transactions between large foreign-owned domestic corporations and related foreign persons, and personal wealth, both for tax year 2004.

S Corporation Officers Must Treat Payments For Services As Taxable Wages, IRS Says

Subchapter S corporations should treat payments for services to officers as wages and not as distributions of cash and property or loans to shareholders, the Internal Revenue Service said in a fact sheet (FS-2008-25) on wage compensation for S corporation officers.

IRS said corporate officers are specifically included in the definition of employee for purposes of the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, and federal income withholding tax. "The Internal Revenue Code establishes that any officer of a corporation, including S corporations, is an employee of the corporation for employment tax purposes," IRS stressed in the recently released fact sheet, which was dated August 2008.

The PCAOB Is Here To Help Assess You

The Public Company Accounting Oversight Board Nov. 25 adopted a budget of \$157.6 million for calendar year 2009, with most of the funding planned for staffing and inspections. The PCAOB's budget represents an increase of 9 percent over the board's budget of \$144.6 million in 2008, according to the board's Nov. 25 news release.

Under Sarbanes-Oxley Act Section 109, the PCAOB's budget, minus registration fees collected from public accounting firms the year before, forms the basis of the PCAOB's 2009 assessment for "accounting support fees" collected from public companies. Under the 2009 budget, the board is projected to assess a total of \$151.8 million in accounting support fees, the PCAOB said in its release.

We wonder: did any of the public companies currently receiving or asking for federal bailout money have any input on this 9 percent increase? What about all the other companies that have seen their market value decline by half in the past year? Any doubt that those companies are increasing their overall budgets by 9 percent? Truly, inflation is a terrible thing.

NSA Happenings from the District V Governor . . .

Christmas is now done and a New Year is just ahead to implement our planning for 2009. On a somber note, NSA 2001-02 Past President Steve Desdier from San Francisco, CA passed away December 7 after an illness with cancer. Steve was known for his sense of humor, wit and compassion. Steve will always be special to me as he is the one who introduced me into NSA involvement by appointing me Co-Chair SROC (State Regulation & Oversight Committee). Year 2000 was my beginning of NSA work while I hope to continue 2009 seeking the NSA Second Vice President position. I just have been appointed as one of the five NSA representatives for work with NSA and the IRS in a research study. This is how one person can have an impact on your life.



Harlan Rose
NSA District V Governor

Now on a happier note, the National Commission for Certifying Agency has certified the accreditation of the ABA Credential. The NCCA is recognized as the authority on accreditation standards for professional certification organizations/programs. ACAT has now embarked on the preliminary stages of obtaining NCCA accreditation for the ATP and the ATA credential.

The NSA Webinars continue to grow as the S Corp Audit webinar had 119 people on December 2, 43 register for the EA Exam Top Ten Topics Part 1 on December 4 and 86 register for the Handy Handouts webinar on December 18.

Thus far 2122 NSA members have completed the NSA Membership Needs Assessment Survey, which is a 24.2% response rate. NSA will have the results and analysis in early February.

NSA continues with the Congress to ensure that ACAT credential holders are exempt from any testing requirement that may be part of an effort to register tax preparers. First Vice President Bob Cross attended a meeting on Capitol Hill on December 15 to discuss tax preparer registration legislation with a representative of the office of Rep Xavier Becerra, who is expected to offer a bill in the House in the new Congress. John Ams and Linda Carlisle, NSA outside lobbyist also attended. "More to come - stay alert."

That's all for now. Happy New Year to everyone involved in WAA and NSA from Judy and myself.

Respectfully submitted,

Harlan Rose, EA, ABA
District V Governor

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