

Volume 53 Issue 3  
July – August 2010



CALIFORNIA SOCIETY OF TAX CONSULTANTS

REPORTER

# CSTC JOINS FORCES WITH THE IRS

**Katie Williams & Marc Zine joined CSTC at the Reno Symposium to give the IRS Tax Return Preparer Guidelines to our attendees. Registration, User Fee & PTIN requirements were discussed.**



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## PRESIDENT'S MESSAGE

Dear Fellow CSTC Members,

As you are aware, once again it is membership dues renewal time. Whether you have sent in your dues renewal or are contemplating whether or not you should, **please keep in mind the many benefits you receive with your membership in CSTC.**

Our CSTC mission statement is "To promote professionalism by providing quality educational events for tax professionals, creating and encouraging networking opportunities for members, and advocating professional standards and positions within the tax industry." ***What does this really mean to you?***

**CSTC offers many types of educational opportunities for you at reduced pricing.** There are monthly chapter meetings and workshops that are local to your geographic area; a contact class in the fall in Orange for 20 hours of CE; the 3 day Summer Symposium in Nevada the first week in June for 24 hours of CE to expand your knowledge on a specific topic; the 2 day Tax Bridge to update you on current tax law changes the first week of December in Orange for 16 hours of CE; a correspondence class in Fundamentals for 60 hours of CE and various on-line classes, including mandatory Ethics, with CE credits varying from 2 hours to 40 hours, depending on the course (several more courses are coming in the fall).

**"We Care Enough To Share"** is our networking motto. We are not in competition with each other, we are all doing the same job – tax returns!! Every member receives a Roster annually that includes our **"Yellow Pages"**. ***When you are stuck with a tax issue and don't know where to find the answer, where do you go first?? To the Yellow Pages!!*** You have the opportunity to call a fellow member, identify yourself as a CSTC member and they will gladly help you resolve your issue or point you in the right direction to get your answer. Networking is done at every chapter meeting and Society education event to give you the opportunity to meet, know and share ideas with your fellow members.

CSTC has members working with CTEC, FTB, BOE and IRS that report to us with any news regarding tax law changes that are passed on to you. ***We are your official contact for the CTEC Board.*** CSTC members in every area of the state attend the IRS Stakeholder Liaison meetings to interact and express member concerns. The IRS Stakeholder Liaison personnel are available to speak at our chapter meetings and do so frequently giving us any late breaking news.

**There are other benefits to your membership and more are coming soon!!** You receive the Reporter with all the CSTC, state and federal news and advertising items. We have members that are seasoned tax professionals mentoring new members; you receive discounts on resource books; ***you receive a \$25 education certificate for every new member you bring to CSTC.*** All the chapters offer additional benefits to their members, including free advertising. Last but not least, ***if you are thinking of retiring from the tax business, who do you want to take over your precious and hard earned clients?? A CSTC member!!***

In closing, if you haven't renewed your dues yet, please send them in now. ***If you have already renewed, we "Thank You" and appreciate your loyalty and the strength you bring to 44 years of CSTC and our Chapters.*** Watch for a new updated website, including a video, with many more links and perks, the new ***South Orange County Chapter*** is about to be chartered and more on-line education is coming later this year to benefit you, our CSTC member!! I am here to serve you – in CSTC, ***"It's all about YOU!!"*** If you have any suggestions for improving and enhancing CSTC, or concerns about your Chapter or your Board, please contact me directly. I look forward to hearing from you. I can be reached at **310-534-3492** or email me at [nlebrun@sbcglobal.net](mailto:nlebrun@sbcglobal.net).

Best Regards,  
Nikki LeBrun, EA  
CSTC President



## ABOUT THE REPORTER

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### ADD YOUR LINK TO CSTC'S WEB SITE

Call 714-750-2782

### 2010 CALENDAR OF EVENTS

8/24-26	IRS Forum Las Vegas, NV
8/31-9/2	IRS Forum San Diego, CA
9/9	Basic Tax Course
9/20	Society Board Meeting
11/15	Society Board Meeting
12/2-3	Tax Bridge to 2011
6/5-6/8/11	Summer Symposium Las Vegas, NV

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**Go to: [www.cstcsociety.org](http://www.cstcsociety.org) and click on the Education Button**

### BASIC TAX COURSE

**Where:** South Coast College  
 2011 W. Chapman Ave  
 Orange, CA 92868

**When?** Monday & Thursday Evenings  
 6:00—9:00 pm  
 Begins September 9, 2010

**Who?** People who want to learn how to prepare tax returns or take a refresher course

**How Much?** \$299

Need Continuing Education for CTEC? Want to train staff members? Like to brush up your preparation skills? Call 714-750-2782 to get more information or to register.



## NEW REQUIREMENTS FOR TAX RETURN PREPARERS

Beginning in 2011, tax return preparers who prepare all, or substantially all, of a Federal tax return (for compensation) will be subject to new requirements including:

- Registration
- Testing
- Continuing Education

These initiatives will take time to implement and are not yet in effect. Proposed and final regulations are necessary to implementation of many of these recommendations, and further information will be available as these are developed.

### Upcoming Requirements:

\*Requiring all paid tax return preparers to sign-up with the IRS, pay a registration fee, and obtain a preparer tax identification number (PTIN). If you already have a PTIN, **you must still** sign-up under the new process.

- Requiring competency tests for all paid tax return preparers **except** attorneys, certified public accountants (CPAs) and enrolled agents who are active and in good standing with their respective licensing agencies.
- Requiring continuing professional education of 15 hours per year for all paid tax return preparers **except** attorneys, CPAs and enrolled agents.
- Conducting tax compliance checks on all tax return preparers.
- Extending Circular 230 ethics standards to all preparers.

All federal tax return preparers, even those who already have a PTIN, will need to register in the new system which will be available in September 2010. As long as the IRS can validate the ownership of the existing PTIN, the same number will be reassigned once the appropriate information is provided and the user fee is paid.

## MORTGAGE INTEREST DEDUCTIBILITY

The Joint Committee on Taxation asked the GAO to report on the subject of the home mortgage interest deduction. The GAO issued a sixty-five-page report on the subject in July 2009. I have heard that the IRS is going to crack down on the mortgage interest deduction. I would say a report by the GAO adds validity to this.

We all should know the rules on mortgage interest deduction. Such as \$1,000,000 limit for acquisition debt, \$100,000 on home equity debt, tracing and a second home. The interest is deductible if secured by a taxpayer's home (main home or a second home). The loan may be a mortgage to buy the home, a second mortgage, a line of credit, or a home equity loan.

The IRS Pub 17 has a chapter on interest expense and the deductibility thereof. It also refers to IRS Pub 936 for further clarification. Both pubs have good flow charts to determine if you can deduct your interest including points. It isn't easy.

What if the proceeds of your loan are used for more than one purpose? You allocate right? If the use of funds is for personal it isn't deductible. Must trace.

Must be a secured debt and the correct property pledged as collateral. You cannot deduct interest on funds borrowed on rental property to buy a principal residence.

The GAO analyzed PUB 936 and came up with the following chart:

<u>Questions taxpayer needs to answer</u>	<u>Number of steps</u>
Is home mortgage interest fully deductible?	Up to 7
Are points fully deductible in current year?	Up to 10
How much of my mortgage interest is deductible this year?	Up to 13

### ***BUT WAIT!!***

It could get worse. Mortgage interest is a complex issue for the IRS and us. What options does the IRS have? They could require third parties to provide useful information such as property addresses, debt balances, and an indicator of loan refinancing. This would allow IRS to identify taxpayers reporting mortgage interest exceeding the acquisition debt limit.

**THE MORAL TO THIS STORY IS WE MUST BECOME MORE DILIGENT IN OUR DEALING WITH MORTGAGE INTEREST DEDUCTION.**

*Submitted by  
Jim Wright  
North County Chapter*

## WELCOME NEW MEMBERS

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Temecula



Yahoo! We had our very own "Pickin' and Grinnin' " at the Summer Symposium this past June. Picker, David Eastis crooned a mean "tax" version to John Denver's "Country Roads" while the rest of the gang rounded up tax questions. Our Hee Haw gang listed from left to right: Jerry Pusateri, LG Brooks, Stephen Bruce, Beanna Whitlock (alias Patsy DeCline), Linda Becket and David Eastis.



## *Audit Defense*

When taxpayers receive a notice from the IRS, stating that their tax return has been selected for examination, they may become overwhelmed by anxiety, fear, and even dread. However, if they have sufficient records to substantiate the income and deductions claimed on the return, this is more of an inconvenience than a real problem. This article will deal with responding to audit/examination notices only, so we will not discuss IRS Automated Under Reporter Unit notices, CP2000, or IRS Collection Division notices as these are entirely different situations handled by different divisions of the IRS.

First, we will identify the different types of IRS Audit/Examinations. The most common type of examination is a "Correspondence Audit" in which the IRS issues a "Check the Box" type notice that identifies the areas of the return that they are examining with checkboxes. These notices are typically issued from one of the larger IRS Service Centers around the country via an automated system and require that the taxpayer or representative respond by mailing or faxing the substantiation documents to the service center. The "Office Audit" is the next most frequently issued notice, which usually lists the areas of the return that are under examination. These are generally issued from a local IRS office and a specific Examiner, Tax Compliance Officer (TCO) or Revenue Agent (RA) that requires a face to face meeting with the taxpayer(s) at the examiner's office. The "Field Audit" is the least common form of examination. These notices are usually issued in the same manner as the office audit notices, however the examiner requires that the meeting take place at the taxpayer's residence or place of business. Whichever type of examination the IRS chooses, the same general purpose applies; which is to require that the taxpayers substantiate their position on the return.

The key to successfully defending any of these types of audits, is compliance and good recordkeeping by the taxpayers. Even the best tax professional cannot defend a taxpayer's position on a return if the taxpayer is not compliant with tax law or does not have sufficient records to support their position. It is also important to respond to the initial notice as soon as possible for the following reasons. If no response is received by the expiration date of the first notice, a 30 day letter and examination report with proposed changes to income and tax will be issued shortly thereafter. This notice will usually allow another 30 days for the taxpayer or representative to respond. In the case of a correspondence audit, this notice is practically guaranteed to be issued as the IRS Service Centers typically take from 30 to 45 days to log a response into their system and extensions of time to respond are generally not granted. In the case of an office or field audit, you may request additional time to respond as you will be dealing with a specific examiner. However, they usually have a set time frame in which they must work the case to its conclusion, or close it and issue a Statutory Notice of Deficiency (90 day letter), so it is at their discretion as to whether they will grant such a request or not. In any case, the sooner the taxpayer or representative responds, the more likely the matter will be resolved at the examination level. Once the Statutory Notice of Deficiency (90 day letter) is issued the taxpayer will have 90 days to resolve the matter with the examiner. If the taxpayers are unable to do so, their options are: 1) if the supporting documents are weak, then the taxpayers should pay the deficiency plus interest and penalties or request an Installment Agreement, if eligible; 2) if the supporting documents are strong, then the taxpayers may request audit reconsideration, direct appeal, or petition the U.S. Tax Court. If the taxpayers choose to file a petition, the tax court will automatically transfer the case from the IRS Examination Division to the IRS Appeals Division. This option is the only option that preserves the taxpayers' rights to go to trial in U.S. Tax Court if they are unable to reach a settlement with the IRS Appeals Officer.

**Continued pg 8.**



Continued from page 7.

If this occurs, then the taxpayers will have to either represent themselves, pro se, or hire an attorney or non-attorney U.S. Tax Court Practitioner as these are the only individuals permitted to practice in tax court.

Of course, most IRS examinations will never get this far so let's go back to the response. The response should include the relevant documents which support the income and deductions claimed on the return, which are in question. The documents should be organized by category in the order that they appear on the return. It is helpful to include divider sheets that identify each category. When reviewing the documents, the taxpayer or representative should estimate the percentage of the items in question that are actually supported by the documents, e.g., 100%, 50%, 25%, etc., so that when the IRS replies to the response with a determination, the accuracy of their computations can be checked. Once the documents have been collated and reviewed, a copy of the notice should be added along with Form 2848, Power of Attorney if the representative is submitting them. A brief letter, which contains the taxpayers' names, tax ID numbers, notice date, mailing/faxing date, a brief description of the supporting documents included, and contact information of the taxpayer or representative should be on top of the response package. This letter should be no more than one page in length unless absolutely necessary to include relevant information and/or explanation if needed. Now the response is ready to be faxed/mailed to the IRS.

If the taxpayers are compliant and have provided sufficient supporting documents, then at this point the only thing left to do is wait for the IRS reply with their determination. If the taxpayers were able to support all of the items in question, then the IRS determination should indicate that there is no change to the tax reported on the original return. If the taxpayers were able to support only a portion of the items in question, then the IRS determination should indicate corresponding adjustments to income and tax. That about sums up the audit defense process.

*Respectfully submitted,  
Rick Jenkins, EA  
President, Orange County Chapter, CSTC*

I received a notice from the IRS under a valid, executed POA on behalf of a taxpayer in the armed forces with low W2 Box 1 earnings and high Box 14 Code Q earnings - taxpayer was deployed and received combat pay during most of 2009. The IRS "computer system" reduced the amount of Making Work Pay credit, citing an incorrect computation on Schedule M.

In March of 2010 I spoke to the IRS about this same issue with another client; the agent told me The Service was aware of the problem and was working to correct it. The IRS "computer system" is NOT considering the Box 14 Code Q combat pay when calculating the Making Work Pay credit. It is now obvious to me The Service did NOT correct the matter, and it is costing OUR CLIENTS money in the form of credit reduction. Suffice, a simple phone call will correct this IRS error – though it is a phone call we, as practitioners, should not be required to make.

**If you prepare a tax return for a member of the armed forces whose W2 has Box 1 earnings below the amount required for the maximum Making Work Pay credit AND you do not hold a valid and executed Power of Attorney for the individual, make certain the taxpayer understands to contact you WHEN --- not IF -- WHEN they receive the letter from the IRS which reduces their Making Work Pay credit.**

Keep in mind that many soldiers in deployable units likely to receive non-taxable combat pay spend alternating periods deployed (12 months stateside and 12 months deployed), AND if the Making Work Pay credit returns for tax year 2010, I have NO reason to believe this particular situation will change - it will simply affect different clients, clients with low W2 Box 1 earnings and high Box 14 Q earnings. It is up to practitioners to make certain the IRS does not erroneously reduce these credits for the men and women serving their country in this most profound way.

*Respectfully Submitted –  
Jen Horton, EA Greater Long Beach Chapter*



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## CSTC MISSION STATEMENT

To promote professionalism by providing quality educational events for tax professionals, creating and encouraging networking opportunities for members, and advocating professional standards and positions within the tax industry.