JOIN US in 2017 for

EXCEPTIONAL Continuing Professional Education

REGISTER EARLY AND SAVE… DETAILS ON PAGE 10!!

AUGUST 7
ILLINOIS TAX SEMINAR
GOVERNMENT SPEAKERS
Palos Hills, IL  60465

AUGUST 28
PRACTICE MANAGEMENT
TAXSPEAKER
Gurnee, IL 60031

SEPTEMBER 26
TRUST & ESTATES
CHRIS BIRD SPEAKER
Bloomington, IL 61704

SEPTEMBER 27
S-CORPS IN DEPTH
CHRIS BIRD SPEAKER
Bloomington, IL 61704

OCTOBER 5
S-CORPS IN DEPTH
TAXSPEAKER
Itasca, IL 60143

OCTOBER 25-26
1040 TAX UPDATE SEMINAR
CHRIS BIRD SPEAKER
Springfield, IL 62703

DECEMBER 12-13
1040 TAX UPDATE SEMINAR
TAXSPEAKER
Itasca, IL 60143

DATES TO BE ANNOUNCED
“NEIGHBORHOOD SEMINARS”
NEED ACCOUNTING HOURS?
8 CPE CREDIT HOURS IN ACCOUNTING

SAVE THE DATE…. JUNE 26-27, 2017
and plan to attend the
IAAI 68th ANNUAL CONVENTION!!

STONEY CREEK HOTEL & CONFERENCE CENTER
101 18th Street, Moline, IL 61265  -  Hotel Reservations: (309) 743-0101

ILLINOIS FED/STATE UPDATE SEMINARS
COMING THIS FALL!!!
LOCATIONS, THROUGHOUT THE STATE.... TO BE ANNOUNCED!!
Message from the President

As the tax season is underway and we are buried under piles of work, we the executive committee and executive office want to make sure you, the members, remember that your fellow members are great networking avenues to bounce problems or issues off each other during this busy season. This is great member benefit that all members should use. The new year of association is just around the corner and dues are due, but wait there is a special membership program dealing with the dues, if you get a new member each of you only pays $99 for the year. Thanks for your consideration in helping our IAAI to grow.

Please enjoy this busy tax season, and we’ll see you later in 2017!

Sincerely,
Norman Regitz Jr, President

If you know someone who has a “B” average in accounting subjects and has a firm intention of pursuing their accounting studies to a successful conclusion and, who have indicated a desire to enter the accounting profession as an independent practitioner please share the Scholarship Application on pages 17-18 of this issue.

The IAAI Scholarship Foundation is once again awarding two $1,000 scholarships to Illinois students majoring in accounting. An application may also be found for printing, on the IAAI website at illinoisaccountants.com.

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Are HRAs dead?  What is the status on employer payment plans?
Can employers deduct health insurance expenses?  What is the penalty?
Are my clients compliant?  What about group employers?

Dustin Petty  Stacey Davis  Chris Maravelas  Tim Randall  Corey Miller
NSA State Director’s Message

Knowing that each of us is very busy – (Is that an understatement??) – at this time of year, I will make this a short note. This is the time of year when we should all be “Keeping Score” in three dimensions:

Our Clients
What problems are they facing this year?
Should we have forewarned them about some of them?
What kind of problems are they likely to experience next year?
Can we assist them in avoiding costly mistakes? Find alternative solutions to taking money from a retirement account?

Our Staff
Are we using them to the full extent of their talents?
Are we telling them “Thank You” for the extra effort they’re putting out?
Are we mentoring them to expand their horizons?
Are we searching for new talent, as we promote our existing staff?

Ourselves
Are we burning ourselves out?
Are we properly/effectively delegating appropriate tasks?
Are we “keeping up” by monitoring the press (both electronic and print)?
Are we monitoring the IRS and IDOR websites for upcoming changes?
Are we visiting the NSA website, often? Are we making full use of our NSA Membership – asking for assistance with some of our most vexing problems?
Are you thinking about your next credential – from ACAT?

Have a great tax season and I look forward to seeing you soon.

Raymond W. Heinen
NSA State Director, Illinois

WESSELS SHERMAN

JOERG LISZKA LAVERY SENECZKO P.C.

Wessels Sherman is recognized as one of the premier Management-Side Labor and Employment Law firms in the Midwest. Contact Managing Shareholder Attorney Nancy Joerg at the Wessels Sherman St. Charles, Illinois office at (630) 377-1554 or via e-mail at najoerg@wesselssherman.com.

We Assist Employers and Accountants with:
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• Unemployment Compensation – IDES Audits/Hearings
• Drafting Enforceable Non-Compete Agreements
• Discrimination/Wrongful Termination Cases
• IDES/IRS Audits – SS-8 Requests
• Affirmative Action Plans
• Labor Union Matters – Strikes/Negotiations
• Wage Payment Laws – DOL Overtime Audits
• Workers’ Compensation Defense
• Training in Sex Harassment, Diversity and Compliance
• Employee Handbooks – Drafting & Review
• Disciplining & Terminating Employees

Locations:
St. Charles, Illinois
Chicago, Illinois
Oconomowoc, Wisconsin
Minneapolis, Minnesota
Davenport, Iowa

Protecting Employers & Assisting Accountants for Over 25 Years
www.wesselssherman.com
Every Wed Morning during Tax Season 7:30 am
Chapter 4 Breakfast Meeting
Sycamore Parkway Restaurant 815-895-6700
605 E. State St, Sycamore, IL  60178

May 19  1:00 pm
Nominating Committee   9 am
Lunch Buffet    Noon
Board of Directors Meeting   1 pm
1801 Eastland Drive, Bloomington, IL 61704
Hotel Reservations 309-662-0000

June 26-27
67th Annual Convention
Stoney Creek Hotel & Conference Center
101 18th Street, Moline, IL 61265
Hotel Reservations 309-743-0101

June 27   1:30 pm
Board of Directors Meeting
Stoney Creek Hotel & Conference Center
101 18th Street, Moline, IL 61265
Hotel Reservations 309-743-0101

August  4  10:00 am
Board of Directors Meeting
Eastland Suites
1801 Eastland Drive, Bloomington, IL 61704
Hotel Reservations 309-662-0000

August  7  8:00 am –4:00 pm
Illinois Seminar  8 CPE Tax
IDES & IDOR Speakers
Moraine Valley Community College
9000 W. College Parkway, Building M
Palos Hills, IL 60465

August  28  8:00 am—4:00 pm
Practice Management
TaxSpeaker  8 CPE TAX
Holiday Inn
6161 W Grand Avenue, Gurnee, IL 60031
Hotel Reservations 847-336-6300

September 26  8:30 am—4:30 pm
Trust & Estates  8 CPE TAX
Chris Bird Speaker
Eastland Suites
1801 Eastland Drive, Bloomington, IL 61704
Hotel Reservations 309-662-0000

September 27  8:30 am—4:30 pm
S-Corps  8 CPE TAX
Chris Bird Speaker
1801 Eastland Drive, Bloomington, IL 61704
Hotel Reservations 309-662-0000

October  5  8:00 am—4:00 pm
S-Corps  8 CPE TAX
TaxSpeaker
Holiday Inn
860 W. Irving Park Road, Itasca, IL 60143
Hotel Reservations 630-773-2340

October 25  time ?
Board of Directors Meeting
Hilton Garden Inn
3100 S. Dirksen Parkway, Springfield, IL 62703
Hotel Reservations 217-529-7171

October 25-26  8:30 am – 4:30 pm
1040 Tax Update Seminar 14 CPE Tax, 2 Ethics
Chris Bird, Speaker
Hilton Garden Inn
3100 S. Dirksen Parkway, Springfield, IL 62703
Hotel Reservations 217-529-7171

December 1   10:00 am
Board of Directors Meeting
Eastland Suites
1801 Eastland Drive, Bloomington, IL 61704
Hotel Reservations 309-662-0000

December 12-13  8:00 am – 4:00 pm
1040 Tax Update Seminar
TaxSpeaker
Holiday Inn
860 W. Irving Park Road, Itasca, IL 60143
Hotel Reservations 630-773-2340

NOTICE TO MEMBERS
Dues statements for the 2017 fiscal year will be mailed by the end of February. You may pay your dues online at illinoisaccountants.com or mail to: IAAI, PO Box 1506,, Galesburg, IL 61401.
IAAI @ the Rail
Legislation Committee News for IAAI Members
In cooperation with the IAAI Legislation Committee

About the only thing that has gone according to plan is the tax filing season opened as projected on January 23rd and the electronic filing commenced as predicted. That’s the good we can report from Springfield, Illinois. The bad is that refunds have been delayed due to a need to match data with tax returns to ensure the taxpayer is who they purport to be on the return. As of this writing refunds have begun to flow so the spigot is opening and taxpayers are not the subject of scrutiny by the Illinois Treasurer or Comptroller offices. The ugly continues to be the stalemate on the floor of the Illinois General Assembly inside the House and Senate. However, the Senate has shown signs of cracking under the external pressure exerted by any number of sources seeking to move the budget discussion along to a legislative conclusion. It is the Illinois House that has not budged and shows no sign of moving anything to a vote except a few “personal interest” measures to fill the void.

The most significant announcement from the Speaker of the House came upon his being re-elected to become the longest sitting Speaker in Illinois history commemorated by distribution of a clock to his partisans. I wonder how the lone representative in the party felt when he didn’t receive his token of appreciation since he didn’t vote for the speaker this go-around. Such is the way of Illinois politics.

I can say that there are pieces of legislation floating around the House and Senate floors because we have been inundated with many that are both lengthy and with references to accounting and tax in the content requiring our review. Thus far the only thing that we have seen with any relevance was not, as we read them, adverse to our members or practitioners. A few you might like to ponder are:

- **HB2451** which creates an administrative technical corrections and processes and requisite electronic handling for funds transfers [*IAAI took no position*]
- **HB2450** to create a State Tax Lien Registry inside the Department of Revenue; while IAAI did not oppose this the concern is how current, maintained and accurate will it be given the staffing issues at play for those responsible in the posting and distribution of the public information.
- **HB821** that would require mandatory electronic filing for certain [business reporting] tax returns. It specifically excludes Automobile Renting Occupation and Use Tax documents. [*IAAI took no position*]
- **HB820** regarding Tax Refund Funds being maintained for taxpayer disbursements in a timely manner outside the normal Illinois bill payment process. [*IAAI took no position*]
- **Amendment #2 to SB9** which was found to be extremely anti-business and imposes a tax burden for all Illinoisans and transfers significant liabilities on the backs of all businesses. [*IAAI opposed this legislative effort*]
- **SB3459** to create a Transforming, Helping, and Reviving Illinois’ Versatile Economy (THRIVE) Job Creation Tax Credit Act. While IAAI sees this ACT as a business favorable measure the devil is in the details which are not entirely clear regarding unintended consequences.

We have over a dozen other legislative measures to comment upon and will be advising our lobbyist as to IAAI’s opinion, view or support going forward. Bear in mind the committee has the same distractions that you face this time of year *BUT* we willingly take the time to be of service for all members and welcome your input on any legislative action you do not see listed here. This is a joint effort because no one person can accomplish this work in a vacuum.
## Continuing Professional Education Programs
### For Tax Professionals

<table>
<thead>
<tr>
<th>Professional Credential</th>
<th>Requirement Period</th>
<th>For 2016 and Later Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorney</td>
<td>Based on state requirements</td>
<td>2 Hours CPE for each partial or whole month, including 2 hours of Ethics or Professional Conduct.</td>
</tr>
<tr>
<td>Enrolled Agent</td>
<td>For First Partial Calendar Year</td>
<td>16 Total Hours of CPE, including 2 Hours of Ethics or Professional Conduct.</td>
</tr>
<tr>
<td>Enrolled Agent</td>
<td>Minimum For Each Full Year of Enrollment</td>
<td>72 Total Hours of CPE, including 6 Hours of Ethics or Professional Conduct.</td>
</tr>
<tr>
<td>Fully Licensed CPA</td>
<td>Every 3 year Cycle. No Minimum Annual Requirement.</td>
<td>120 hours every three years, includes not less than 4 hours of Professional Ethics. The next reporting period ends 9/30/18.</td>
</tr>
<tr>
<td>Registered CPA*</td>
<td>Not required for Illinois</td>
<td>No educational requirement.</td>
</tr>
</tbody>
</table>

* = see OTHERS below

- Accredited Business Accountant/Advisor (ABA) under the Accreditation Council for Accountancy and Taxation (ACAT) annual cycle: 120 hours of CPE during each 3 year cycle, or 40 hours CPE per year. This is an ACAT requirement. IRS is only 15 hours.

- Accredited Tax Preparer (ATP) under the Accreditation Council for Accountancy and Taxation (ACAT) annual cycle: 72 hours of CPE during each 3 year cycle, or 24 hours CPE per year. This is an ACAT requirement. IRS is only 15 hours.

- Registered Tax Return Preparer (RTRP) and others who have completed national exams such as ACAT’s ABA and ATP. Includes individuals passing Part 1 of the EA Exam in the current year or preceding year: 15 Total Hours of CPE, including 2 Hours of Ethics or Professional Conduct, and 3 hours Federal Tax Law Updates.

- Voluntary Participants in IRS Annual Filing Season Program (AFSP): 18 Total Hours of CPE, including 2 Hours of Ethics or Professional Conduct, and 6 hours Federal Tax Law Updates along with completion of required comprehension test.

- OTHERS (Including Registered CPAs in Illinois): No requirements. However, cannot represent taxpayers at any IRS activity. Also, will not be listed on IRS Preparer List. Per IL CPA Society and IRS, cannot use "CPA" on any tax forms.

**Source:** Independent Accountants Association of Illinois  
2/1/2017
IAAI Membership Corner.....

2 for 1 Special Membership Offer

Before you rush to pay your 2017 dues, think about helping the IAAI increase its membership roster. From now until June 30, 2017 we have a special two for one membership program. All you have to do is get a friend, an associate or even a competitor to join the Association and both of you get a full year membership, good through March 31, 2018, for the price of one membership, $199. So find us a new member who has not been a member for the past five years and you can split the $199 fee in half for each of you when you fill out the 2 for 1 Membership form (included with your dues statement) and you both pay your share of the 2017-2018 dues. Imagine a full year of IAAI member benefits for only $99.50 each. We encourage you to turn towards the IAAI. We are here to help you in your practice, and with your education, representation and problems.

Norman Regitz, Jr.
IAAI President 2016-2017

Welcome New Members....

Chapter 2
Patricia Kay
Chicago, Illinois

Chapter 10
Bryan Vollintine
Coffeen, Illinois

Chapter 16
Peter Recchia
Burr Ridge, Illinois

Chapter 16
David Smith
Olympia Fields, Illinois

Accredited Tax Preparer® (ATP) Credential

Consider Earning the ATP Credential -
Take Advantage of a Great Educational Opportunity through IAAI!

IAAI would like to offer an eight hour/ two part Accredited Tax Preparer (ATP) class this June 27th and 28th, Stoney Creek Hotel, Moline, IL, and also offer the ATP examination on June 28th. The ATP examination window is June 1 through July 15, 2017. Please let the IAAI Executive Office know of your interest. Call 800.222.2270 or email us at iaai@grics.net.

Accredited Tax Preparers have exempt status and are able to obtain the IRS Annual Filing Season Program (AFSP) – Record of Completion without taking an Annual Federal Tax Refresher course and exam. ATPs in good standing:

- Are exempt from the AFSP Annual Federal Tax Refresher course and testing requirements
- Have reduced continuing education requirements of 15 hours for the AFSP
- Are included in the IRS public database of tax return preparers

In addition to being included in the IRS public database, the Annual Filing Season Program – Record of Completion differentiates the tax preparer in the marketplace. The IRS launched a public education campaign in January 2015 encouraging taxpayers to select return preparers carefully and seek those with professional credentials or other select qualifications.

Annual Filing Season Program participants will have limited representation rights, meaning they can represent clients whose returns they prepared and signed, but only before revenue agents, customer service representatives, and similar IRS employees, including the Taxpayer Advocate Service.
There are many good reasons for which a company fires one of its employees. Some of these reasons are:

1. Theft by the employee;
2. The employee is not performing well;
3. The employee is deliberately violating company rules and policies; and/or
4. The employee is insubordinate.

But, strangely, not all good reasons for firing an employee lead to a finding by the Illinois Department of Employment Security (IDES) of “misconduct.” Surprising to many clients, many bad employees are fired and are then successful in getting unemployment insurance benefits. Many clients are stunned and very upset!

**So, how can an employer prove that the fired employee was guilty of misconduct under Section 602A1 - 8 of the Illinois Unemployment Insurance Act?**

**DEFINITION OF MISCONDUCT:** Under Section 602A of the Illinois Unemployment Insurance Act, the precise legal definition of misconduct is: “the deliberate and willful violation of a reasonable rule or policy of the employing unit, governing the individual’s behavior in performance of his work, provided such violation has harmed the employing unit or other employees or has been repeated by the individual despite a warning or other explicit instruction from the employing unit.” (Emphasis added)

You will note that the simple legal elements of Section 602A require deliberate and willful behavior, and it must have caused actual harm to the company. (These elements need to be convincingly proven by the company in order for unemployment insurance benefits to be blocked.)

**LISTING OF EIGHT DEFINITIONS OF MISCONDUCT:** As of January 3, 2016, there are also eight legal (and very helpful to employers!) definitions of misconduct for IDES purposes:

1. **FALSIFICATION OF DOCUMENTATION:** Falsification of an employment application, or any other documentation provided to the employer, to obtain employment through subterfuge.
2. **FAILURE TO MAINTAIN LICENSES:** Failure to maintain licenses, registrations, and certifications reasonably required by the employer, or those that the individual is required to possess by law, to perform his or her regular job duties, unless the failure is not within the control of the individual.
3. **REPEATED VIOLATION OF ATTENDANCE POLICIES:** Knowing, repeated violation of the attendance policies of the employer that are in compliance with State and federal law following a written warning (tip: put your attendance warnings in writing!) for an attendance violation, unless the individual can demonstrate that he or she has made a reasonable effort to remedy the reason or reasons for the violations or that the reason or reasons for the violations were out of the individual’s control. Attendance policies of the employer shall be reasonable and provided to the individual in writing, electronically, or via posting in the workplace (tip: put your attendance policies in writing!).
4. **DAMAGE TO EMPLOYER’S PROPERTY:** Damaging the employer’s property through conduct that is grossly negligent.
5. **REFUSAL TO OBEY REASONABLE INSTRUCTION:** Refusal to obey an employer’s reasonable and lawful instruction, unless the refusal is due to the lack of ability, skills, or training (tip: document training) for the individual required to obey the instruction or the instruction would result in an unsafe act.
6. **ALCOHOL/DRUGS:** Consuming alcohol or illegal or non-prescribed prescription drugs, or using an impairing substance in an off-label manner, on the employer’s premises during working hours in violation of the employer’s policies.

7. **REPORTING TO WORK UNDER THE INFLUENCE:** Reporting to work under the influence of alcohol, illegal or non-prescribed prescription drugs, or an impairing substance used in an off-label manner in violation of the employer’s policies, unless the individual is compelled to report to work by the employer outside of scheduled and on-call working hours and informs the employer that he or she is under the influence of alcohol, illegal or non-prescribed prescription drugs, or an impairing substance used in an off-label manner in violation of the employer’s policies.

8. **ENDANGERING SAFETY:** Grossly negligent conduct endangering the safety of the individual or coworkers.

**GROSS NEGLIGENCE DEFINED:** For purposes of paragraphs 4 and 8, conduct is “grossly negligent” when the individual is, or reasonably should be, aware of a substantial risk that the conduct will result in the harm sought to be prevented and the conduct constitutes a substantial deviation from the standard of care a reasonable person would exercise in the situation.

**RECENT WINNING CASE:** I recently represented an accounting firm in protesting an IDES claim for unemployment insurance benefits filed by a former employee (i.e., the Claimant).

The unemployment insurance Claimant was a bookkeeper who had previously demonstrated (early in her work history) the ability to properly and timely prepare the payroll tax reports for the firm’s clients.

In the incident that led to the Claimant’s termination, the owner discovered (to her horror) that the Claimant was making serious errors and was very far behind in completing the tax reports. The owner reasonably asked the Claimant for daily progress reports as to the Claimant’s progress on completion of these time sensitive tax documents. The Claimant deliberately misled the owner into believing that the requested documents were nearly done. At the IDES phone hearing, the accounting firm proved that the Claimant did not obey the reasonable instruction of providing accurate and truthful progress reports and put her employer in jeopardy.

The IDES Decision found that “the Claimant is disqualified from benefits under Section 602A5” (which is refusal to obey an employer’s reasonable and lawful instruction, unless the refusal is due to the lack of ability, skills, or training for the individual required to obey the instruction or the instruction would result in an unsafe act). So, misconduct was proven under Section 602A5 and the Claimant was denied unemployment insurance.

**PRACTICE TIP FOR EMPLOYERS:** The eight definitions of misconduct for IDES purposes can be very helpful when the facts fit neatly into one or more of the categories. This is why it is important to have a strategic consultation to discuss the reasons for firing an employee prior to the employee being terminated. Then, in any documentation of the termination, the employer can use the “buzz words” as found in the eight legal definitions of misconduct.

If you think through these issues thoroughly prior to termination, your batting average at winning IDES misconduct claims and Hearings will go up dramatically.

For assistance with employee terminations and protesting unemployment insurance claims, as well as representation at IDES Hearings, contact Attorney Nancy E. Joerg who can be reached at Wessels Sherman’s St. Charles, Illinois office: 630-377-1554 or email her at najoerg@wesselssherman.com.
# DEBITS AND CREDITS

## IAAI Presents 2017

### CONTINUING PROFESSIONAL EDUCATION

### Early Bird Savings

<table>
<thead>
<tr>
<th>Event</th>
<th>Non-Member Fee</th>
<th>IAAI &amp; NSA Member Fee</th>
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<tbody>
<tr>
<td><strong>Illinois Tax Seminar</strong></td>
<td>$175.00</td>
<td>$150.00</td>
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<tr>
<td><strong>Government Speakers 8 CPE Tax</strong></td>
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<tr>
<td><strong>August 7, Moraine Valley Community College</strong></td>
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<tr>
<td>9000 W. College Parkway, Palos Hills, IL 60465</td>
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<td>College Phone (708) 974-4300</td>
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<td><strong>Practice Management</strong></td>
<td>$350.00</td>
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<tr>
<td><strong>TaxSpeaker 8 CPE TAX</strong></td>
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<tr>
<td><strong>August 28, Holiday Inn</strong></td>
<td>$315.00</td>
<td>$260.00</td>
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<tr>
<td>6161 W. Grand Avenue, Gurnee, IL 60031</td>
<td>$240.00</td>
<td>$185.00</td>
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<tr>
<td>Hotel Reservations (847) 336-6300</td>
<td>by August 7</td>
<td>by August 7</td>
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<tr>
<td><strong>Trust &amp; Estates</strong></td>
<td>$275.00</td>
<td>$220.00</td>
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<tr>
<td><strong>Chris Bird Speaker 8 CPE TAX</strong></td>
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<tr>
<td><strong>September 26, Eastland Suites</strong></td>
<td>$350.00</td>
<td>$295.00</td>
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<tr>
<td>1801 Eastland Drive, Bloomington, IL 61704</td>
<td>$240.00</td>
<td>$185.00</td>
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<tr>
<td>Hotel Reservations (309) 662-0000</td>
<td>by September 5</td>
<td>by September 5</td>
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<tr>
<td><strong>Trust &amp; Estates &amp; S-Corps</strong></td>
<td>$385.00</td>
<td>$330.00</td>
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<tr>
<td><strong>Chris Bird Speaker 16 CPE TAX</strong></td>
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<td><strong>September 26-27, Eastland Suites</strong></td>
<td>$350.00</td>
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<tr>
<td>1801 Eastland Drive, Bloomington, IL 61704</td>
<td>$240.00</td>
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<tr>
<td><strong>S-Corps</strong></td>
<td>$350.00</td>
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<td><strong>TaxSpeaker 8 CPE TAX</strong></td>
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<tr>
<td><strong>October 5, Holiday Inn</strong></td>
<td>$315.00</td>
<td>$260.00</td>
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<tr>
<td>860 W Irving Park Road, Itasca, IL 60143</td>
<td>$210.00</td>
<td>$165.00</td>
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<tr>
<td>Hotel Reservations (630) 773-2340</td>
<td>by September 14</td>
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<tr>
<td><strong>1040 Tax Update Seminar</strong></td>
<td>$385.00</td>
<td>$330.00</td>
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<tr>
<td><strong>Chris Bird Speaker 14 CPE TAX, 2 CPE ETHICS</strong></td>
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<tr>
<td><strong>October 25-26, Hilton Garden Inn</strong></td>
<td>$350.00</td>
<td>$295.00</td>
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<tr>
<td>3100 S. Dirksen Parkway, Springfield, IL 62703</td>
<td>$210.00</td>
<td>$165.00</td>
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<tr>
<td>Hotel Reservations (217) 529-7171</td>
<td>by October 4</td>
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<tr>
<td><strong>1040 Tax Update Seminar</strong></td>
<td>$415.00</td>
<td>$360.00</td>
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<tr>
<td><strong>TaxSpeaker 16 CPE TAX, 2 CPE ETHICS (Take Home)</strong></td>
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<tr>
<td><strong>December 12-13, Holiday Inn</strong></td>
<td>$380.00</td>
<td>$325.00</td>
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<tr>
<td>860 W. Irving Park Road, Itasca, IL 60143</td>
<td>$210.00</td>
<td>$165.00</td>
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<tr>
<td>Hotel Reservations: (630) 773-2340</td>
<td>by November 21</td>
<td>by November 21</td>
</tr>
</tbody>
</table>

Register online at [www.illinoisaccountants.com](http://www.illinoisaccountants.com)

**Independent Accountants Association of Illinois**

PO Box 1506, Galesburg, IL 61402-1506

For more information call 800-222-2270, Fax 800-313-2270

Name____________________________________________  Address______________________________________________

City_______________________________ State______ Zip___________ Email_____________________________________________

Phone ____________________PTIN_______________________ CHECK: (Payable to IAAI) [ ]  CHARGE [ ] MC Visa Discover AX

Account #:________________________ Exp __________ Signature_____________________________________________

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From asset and stock sales to real estate transactions to income and estate tax planning. Also emphasizing representation of individuals and businesses before the Internal Revenue Service and the Illinois Department of Revenue.

EDUCATION CORNER

Dear IAAI Members,

I am writing this month’s "Education Corner". Our Association offers numerous opportunities between May and January of the following year to obtain quality professional continuing education. No matter if you are an EA, CPA, JD, AFSP or other professional designation, we have the programs for you! The Association is authorized by the Internal Revenue Service, Illinois Department of Professional Regulation, and NASBA to certify the CPE hours. We usually offer five or six sessions during the year, statewide, so that all members have access to the location of their choice. We also offer educational opportunities at the local Chapters, either on a monthly, quarterly or annual basis. Everyone who offers accounting or tax services to the general public owe it to themselves and their clients to obtain the latest and relevant education needed to stand above the "fly-by-night" preparer or "wannabe" who may not be adequately servicing their clients. To give an example, one such "wannabe", who I have been encouraging to become credentialed and take continuing education for years (she does not have the AFSP designation), did not know the basics of a 1098 - student loan interest statement - as to where it should be entered. She thought it was similar to the 1098 - T - tuition statement, where the client would receive a tax credit. Thankfully, she called me before she made a grave error in computing a tax credit where it did not apply! This is why our members sacrifice the time to learn from continuing education, not only from the respective speaker, but also from other like-minded people, who share their experiences and offer tax conundrums for review. Networking and collaboration are always helpful to one's practice! This cannot be done via webcast or self-study! So, please, review our offerings, plan your continuing education schedule, similar to the process of registering for college classes, so that your continuing education requirements are met in a timely fashion. Please contact our office for more information and receive answers to your questions. We look forward to see you soon! Have a great tax season!

George R. Crouse, Jr., EA, ATA, ATP, MST
IAAI Past President and Member of the Education Committee
Lessons from a Horse Farm:
S Corporation Unable to Save Hobby Loss
Prepared by: Sandra D. Mertens, Esq., Dale & Gensburg, P.C. 200 West Adams Street, Suite 2425, Chicago, IL 60606

Internal Revenue Code Section 183 provides that, if an activity is not engaged in for profit, then no deduction attributable to the activity will be allowed unless an exception applies. This is commonly termed “hobby loss,” although it is broader than just hobbies and may apply to tax shelters and other activities, and applies to activities of individuals and S corporations. There is a presumption that an activity is a “hobby” (i.e., an activity not engaged in for profit) when the activity produces a net loss in 3 or more of the most recent 5 consecutive taxable years. When an activity is not engaged in for profit, then deductions attributable to that hobby will generally be allowed only to the extent of the income from the hobby.

In the case Estate of Stuller v. U.S., the Seventh Circuit (i.e., the federal appellate court for Illinois, Wisconsin, and Indiana) issued an opinion on January 26, 2016 (Case No. 15-1545) holding that a horse farm operated by an S corporation was not run as a for-profit business under Section 183. In this case, Harold and Wilma Stuller, a married couple living in Springfield, Illinois, purchased a farm in Tennessee. The Stullers formed L.S.A., Inc. (“LSA”), an S corporation, to operate a horse-breeding operation. They bred the Tennessee Walking Horse, used for show, trail, and pleasure riding. LSA hired a manager named Motes to breed and train their horses and manage the farm. From 2004 to 2009, LSA lost, on average, $150,000 every year, except 1997 when it had a $1,500 annual profit. To cover the losses, LSA took loans from the Stullers. Since LSA was an S corporation, the losses were passed to the Stullers through Schedule K-1s, and the Stullers claimed deductions for LSA’s losses on their individual income tax returns. The Stullers also reported $80,000 in annual rental payments from LSA for rental of the horse farm, which was offset by the loss deduction.

After Harold Stuller passed away in January 2003, the IRS audited the taxpayers’ 2003, 2004, and 2005 federal income tax returns. At the conclusion of the audit, the IRS determined that LSA was not an activity engaged in for profit, and disallowed the Stullers’ deductions for LSA’s losses. The Stullers filed suit, arguing that the horse farm was an activity engaged in for profit, and that they took steps to control LSA’s expenses to make the horse farm profitable. They argued that the size of the horse farm – approximately 30 horses – indicated that the operation was a business and not a hobby.

Both the lower court and the Seventh Circuit Court of Appeals disagreed with the Stullers’ arguments. The Court focused primarily on the non-exclusive list of factors in Treasury Regulation 1.183-2(b) to determine whether the activity was a hobby, including: (1) the manner in which the taxpayer carries on the activity (e.g., managed as a business with a profit motive); (2) the expertise of the taxpayer or his advisors; (3) the time and effort expended by the taxpayer in carrying on the activity; (4) expectation that assets used in activity may appreciate in value; (5) the success of the taxpayer in carrying on other similar or dissimilar activities; (6) the taxpayer’s history of income or losses with respect to the activity; (7) the amount of occasional profits, if any, which are earned; (8) the financial status of the taxpayer; and (9) elements of personal pleasure or recreation. Applying the factors to the case, the Court found that all but one factor weighed against the taxpayers, because they did not keep good business records, they did not take meaningful steps to address LSA’s unprofitability, they failed to consult an industry expert, they had a high tolerance for loss, the business generated substantial losses in all but one barely profitable year, they derived a great deal of pleasure from the horse-breeding operation, and they had substantial income from other sources which received substantial tax benefits from the horse farm deductions. The only factor that weighed in the taxpayers’ favor was the possibility that the farm and related real estate might increase in value. Thus, the Court held that the taxpayers were not engaged in an activity for profit, and Section 183 barred them from claiming losses in excess of the income.

Notably, the Stullers had engaged an accountant to prepare their business and personal tax returns. At trial, the accountant testified that, while he provided advice related to the creation of LSA, prepared its tax returns, and generated annual reports of the assets and liabilities, he was not capable of providing advice specific to the horse-breeding industry. Thus, the Court found that the accountant did not qualify as an “expert” for purposes of determining whether the taxpayers consulted industry experts. Moreover, the accountant’s records were reviewed by the Court in making its decision that the taxpayers’ failure to file their 2003 return timely was not based on reasonable cause. “[T]rial
testimony shows that the only outstanding documents her accountant needed to complete the tax return were bank statements.”

Finally, the Court held that the Stullers must also report the rental income they received from LSA, even though they would not be allowed to claim excess deductions from LSA’s losses. The Court found it relevant that LSA was an S corporation that was a separate entity from its shareholders. As such, “the denial of a corporate-level deduction for an S corp’s shareholder does not entitle the taxpayer to remove rental income from an individual tax return.” Rather, the Stullers’ attempt to “undo” their lease with LSA now that the corporate losses were not deductible was viewed by the Court as “a belated attempt to game the system in order to maximize their tax benefits.”

Although the law is fairly established on the issue of hobby losses, taxpayers continue to try claiming losses related to activities not engaged in for profit. For example, the U.S. Tax Court recently decided the case of Moyer v. Commissioner of Internal Revenue, T.C. Memo. 2016-236 (Dec. 27, 2016), whereby the Court held that the taxpayer’s S corporation was not engaged in an activity for profit because the business failed to keep accurate books and records, reported a sizeable loss for each year (2004 through 2009), and little effort was given to marketing or developing new business. As such, the Court concluded that, while the taxpayer may have originally had a profit objective when the S corporation was formed in 1994, this was no longer the case by 2009, when the S corporation was “merely a convenient device by which the Moyers could try to deduct otherwise nondeductible personal expenses.”

In conclusion, the law is well-settled that use of an S corporation to operate a business that consistently does not make a profit may result in disallowed hobby loss deductions under Section 183. Tax return preparers can assist their clients in minimizing their audit risk by tracking business losses over the years to determine whether consistent losses might suggest an activity not engaged in for profit. Accountants can discuss the factors listed in Treasury Regulation 1.183-2(b) with their clients to help them understand their risk of exposure should the client attempt to claim a hobby loss. Finally, accountants should educate themselves to ensure they are providing the best service possible to their clients. For example, had the accountant in the Stuller case been more aware of the factors in the Treasury Regulation and aware of a special provision in Section 183 making the presumption of a hobby loss stronger for horse-related business activities, the Stullers may have structured their horse farm activity differently and received a better overall tax result.
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TOTAL  $________

EVENTS

Join us Sunday evening at 6 pm for a “Taste of the Quad Cities”.

Monday, June 26
9:00 am
•NOMINATING COMMITTEE MEETING

NOON
•LUNCH BUFFET

1:00 pm
•ANNUAL MEETING
AND ELECTION OF OFFICERS

6:00 pm
•DINNER CRUISE & INSTALLATION OF OFFICERS

Tuesday, June 27
7:00 am
•CONTINENTAL BREAKFAST

8:00 am
•CONTINUING PROFESSIONAL EDUCATION
GOVERNMENT SPEAKERS 4 CPE

Noon
•AWARDS LUNCHEON

1:30 pm
•BOARD OF DIRECTORS MEETING
New Tax Help for Gamblers

By Richard P. Allen, EA, AFSP, IAAI Past President

In March 2015, the IRS issued Notice 2015-21 which contains a proposed revenue procedure that would permit gamblers engaging in electronically tracked slot machine play an optional safe harbor method to determine a wagering gain or loss from their slot machine play based on day-long play sessions.

Under the safe-harbor, a taxpayer would recognize a wagering gain if, at the end of a single session of play, the taxpayer’s total gains exceeded his or her losses and would recognize a loss if, at the end the session, the total amount of wagers exceeds the amount of payouts. A session would be treated as beginning when a gambler places the first wager on a particular type of game and ending when the same gambler completes his or her last wager on the same type of game before the end of the same calendar day.

This updates their own IRS Reporting Memorandum of December 5, 2008 by their Associate Chief Council, which has similar wording. Unfortunately, the IRS has never updated their CP-2000 Automated Under-Reporter Program in line with these announcements.

An example might be as follows:

Abe likes to play video poker or slots. He went to his local casino 5 times in 2015. Each day he started with $300 cash in his “money belt”. His results are as follows:

- Day 1. He made a profit of $150 more than he started with. No big Jackpots.
- Day 2. He hit a $2,000 jackpot, and received a W-2G for $2,000. He also won smaller payouts of $400, and put back $1,300 into the machines, for a net win of $1,100.
- Day 3. This was a bust. He lost all $300 he came with. No wins.
- Day 4. This was worse. He lost the $300 he started with, plus $700 he took out of the casino ATM.

Currently, the IRS computers expect to see the following:

- Form 1040, Line 21 Other Income. W-2G Winnings $2,000.
- Schedule A, Itemized Deductions, Line 28. Other Miscellaneous Deductions (NOT subject to the 2% exclusion) $2,000 ($1,300 + $300 + $800 equals $2,300 in losses, limited to the Winnings limit of $2,000).

According to Notice 2015-21, you should report the following:

- Form 1040, Line 21 Other Income will have an entry as follows: “Wagering Gain as determined under IRS attached Notice 2015-21 Safe Harbor Method .......... $1,250” ($150 from Day 1, and $1,100 from Day 2)
- Schedule A, Itemized Deductions, Line 28. Other Miscellaneous Deductions (NOT subject to the 2% exclusion) $1,250 ($300 Day 3 session loss + $1,000 Day 4 equals $1,300 in losses, limited to the Winnings limit of $1,250).

In this example, Abe winds up paying Illinois state tax on $1,250, instead of on $2,000. Also, medical expenses might be greater due to a smaller adjusted gross income exclusion.

Now here’s a real example:

1. Mr. & Mrs. Smith had $109,170 in W-2G winnings from video poker machines. Their player’s card said their total losses exceeded the W-2G winnings by at least $50,000.
2. Their net session winnings were only $47,950, which was $61,220 less than line 1.
3. They deducted the $47,950 on Schedule A, Itemized Deductions, Line 28. Other Miscellaneous Deductions (NOT subject to the 2% exclusion).
4. The saved Illinois income taxes 3.75% of the $61,250 difference = $2,297 Illinois income tax savings.

The key to using this method is to have the taxpayers use the attached “GAMING DIARY” or similar records which would be updated with each gaming session. See instructions on the attached Gaming Diary.
GAMING WINS AND THE IRS

Casinos are required by law to report certain gaming wins. Specifically, they are required to generate a Form W-2-G for a payout of $1,200 or more from a slot machine and a win (net of wager) of $1,500 or more in Keno.

Should you receive a form W-2-G, you are required to report the "Net Gaming Win" for EACH SESSION amount on your federal tax return as "other income." A "Session" is the period of time at that casino during that day.

You are, however, allowed to deduct gaming losses in any year to the extent of reported winnings for that year if you itemize deductions. These losses should be claimed as miscellaneous deductions and cannot be netted against reported wins.

The IRS has indicated that it will usually accept a gaming diary such as this as evidence of losses if this diary is prepared at the time of play, or shortly thereafter, while the facts are still fresh in your mind. This report provided to you to help in maintaining your gaming records.

**PLAYER'S NAME:**________________________________________________     **YEAR:**_______

<table>
<thead>
<tr>
<th>Date:</th>
<th>Casino:</th>
<th>City, State</th>
<th>Persons Present</th>
<th>$$ Net WON During This Session</th>
<th>$$ Net LOST During This Session</th>
<th>Type of Game</th>
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**Total NET Gaming Wins >>>>** $__________ To Form 1040, Other Income

**Total GAMING Losses >>>>** $_________ To Misc.

Deductions, NOT subject to a 2% AGI Income Exclusion (limited to the amount of Gaming Wins)

It is recommended that any and all substantiation of your play is in the notes section, or kept with this diary: (i.e., witnesses, hotel bills, airline tickets, checks cashed for gaming purposes, credit records, ATM receipts, etc.)
Directions: Send the following documents (separately or together) by June 30, 2017 to Independent Accountants Association of Illinois Scholarship Foundation, PO Box 1506, Galesburg, IL 61402-1506:

(1) this Application, (2) Official Transcripts from each college attended, and (3) a Letter of Recommendation on school letterhead from the head of the Accounting Department or Professor of Accounting at the college or university in which you are presently enrolled. Two scholarships of $1,000 each will be awarded.

1. Name in Full ______________________________________________________________________
2. Date of Birth ________________________________ Social Security ____________________________
3. Address at School ____________________________________________________________________
   E-Mail ____________________________________________ Cell Phone ____________________________
   Home Address _________________________________________________________________________
   ____________________________________________ Home Phone ________________________________
4. Father’s Name and Address ____________________________________________________________
   Father’s Occupation __________________________________________________________________
5. Mother’s Name and Address ____________________________________________________________
   Mother’s Occupation __________________________________________________________________
6. How do you currently pay for your education? (Due to how some institutions apply awards it has become necessary to include other scholarships, financial aid, loans and other monies and how they are applied.)
   __________________________________________________________________________________
   (This information is for guidance only.)
7. College, Community College, Universities Attended
   Universities Attended __________________________________________________________________
   Major Field __________________________________________________________________________
   Accounting Subjects ____________________________________________________________________
   Overall Average in Degree Earned __________________________________________________________________________
   __________________________________________________________________________________
   __________________________________________________________________________________
8. Please list other members of your family (parents, siblings, spouses and children) who are enrolled in a higher education institution, and how they fund their education

__________________________________________________________________________________

__________________________________________________________________________________

9. Educational institution in which you are presently enrolled

__________________________________________________________________________________

4-year school  2-year school  Full-Time  Part-Time  (Circle One)

Class you will be in Fall Semester 2017:  Senior  Junior  Sophomore  (Circle One)

10. Anticipated Date of Graduation

11. Do you intend to continue your education at this institution?  Yes  No  (Circle One)
If not, where will you attend

12. Do you intend to pursue a major in accounting?  Yes  No  (Circle One)
Do you plan to enter the field of public accounting?  Yes  No  (Circle One)

13. Describe extra-curricular activities

__________________________________________________________________________________

__________________________________________________________________________________

14. List campus or other organizations, societies, etc. in which you hold membership

__________________________________________________________________________________

__________________________________________________________________________________

15. References, other than relatives.  (Name, address and occupation of each, please.)

1. ____________________________________________________________

2. ____________________________________________________________

3. ____________________________________________________________

4. ____________________________________________________________

I affirm that all the statements made in this application are true to the best of my knowledge.

__________________________________________________________________________________

Signature of Applicant  Date

Independent Accountants Association of Illinois

Scholarship Foundation

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