

NEBRASKA CPA

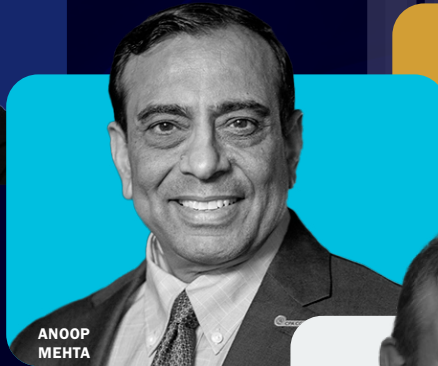
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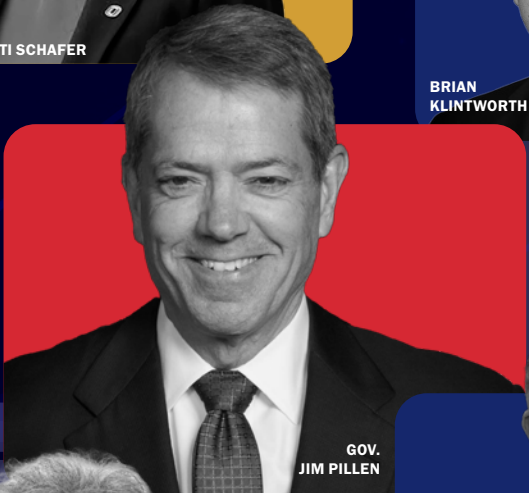
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ISSUE 4, 2023

C O N T E N T S



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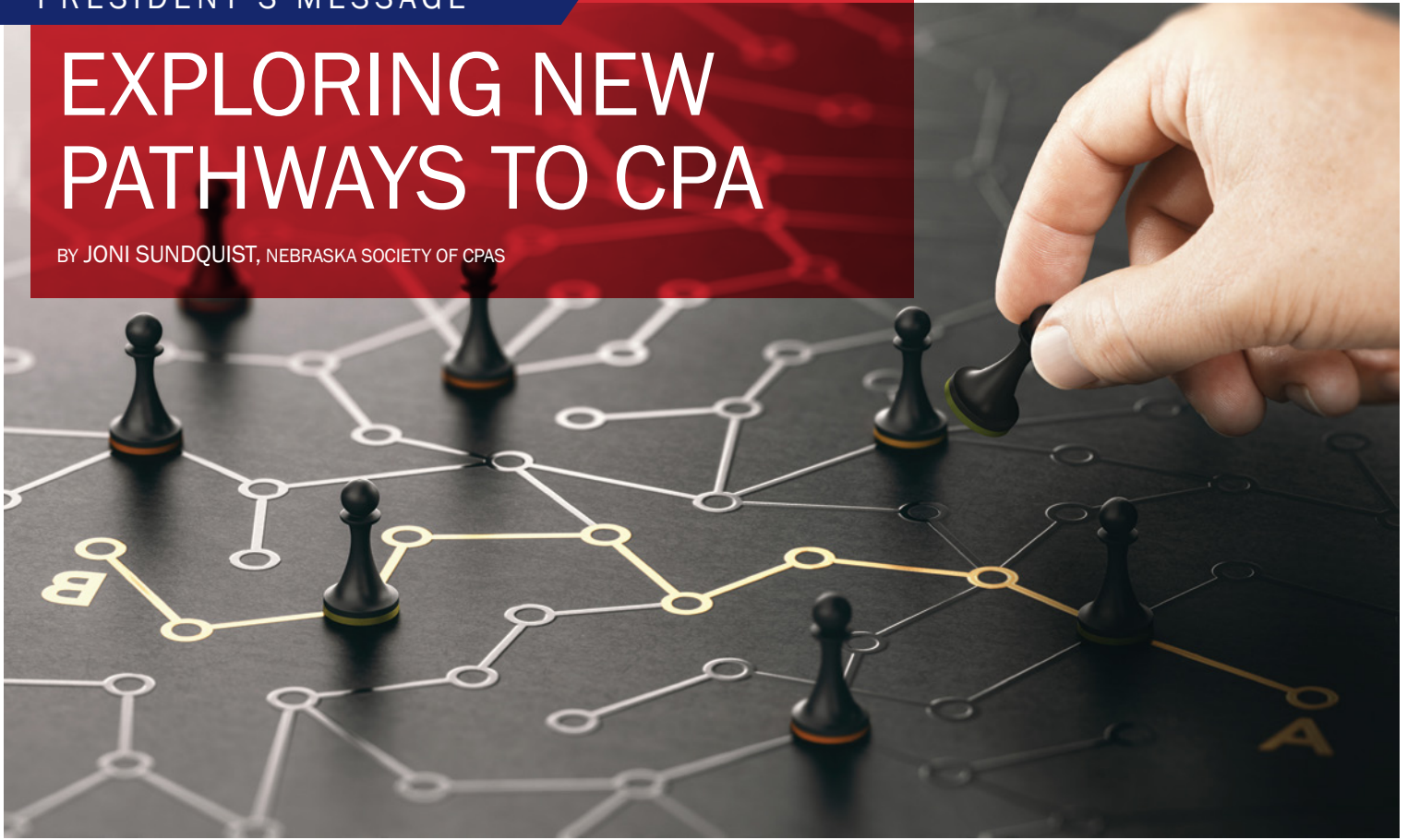


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EXPLORING NEW PATHWAYS TO CPA

BY JONI SUNDQUIST, NEBRASKA SOCIETY OF CPAS



WHILE “BUSY SEASON” FOR CPAS HAS COME AND GONE, summertime at the Nebraska Society of CPAs is one of your organization’s busiest seasons. CPE is full throttle ahead and our Fall Conference and Annual Meeting are just around the corner. Several busy, exciting months lie ahead!

At the Nebraska Society of CPAs, we pride ourselves on finding solutions to your concerns and problems. This might mean seeking a legislative or regulatory solution to assist CPA candidates in our state—see the State Board Report on page 8 to learn about our latest initiatives alongside the Nebraska Board of Public Accountancy. Another time, it’s pulling together a group of CPAs to provide input to the Nebraska Department of Revenue on a new form or process—see page 16 to learn about the new Pass-Through Entity Tax (PTET) legislation. Volunteers from your Society have been collaborating with the Department of Revenue on the new PTET forms, which have recently been released. Other times, it’s quickly developing a CPE course on an emerging issue, or publishing an article on a legal matter, or participating in a research study that might result in new strategies, or pursuing a new business partnership to provide you discounted products and services.

The Society is continually working for you and your profession. Whatever your concerns or problems may be, our focus is unwavering: “Every member. Every day.”

Like nearly every other profession today, the CPA profession is not immune to the demographic drivers of change in today’s world.

Whether you pine for the past or eagerly embrace the future, it’s undeniable that the world around us is in a constant state of transformation. “Around the world and in every corner of the United States, we are in the midst of an unprecedented demographic transformation,” said Dr. James H. Johnson, Jr. during a recent AICPA Town Hall. Johnson, a demographic expert and professor of strategy and entrepreneurship at the University of North Carolina at Chapel Hill, described today’s “demographic gale force wind gusts,” which include declining labor force participation, slowing population growth, and dropping fertility rates, among others. He talked about how these demographics are transforming how we work and live.

Given these trends, it’s no surprise that the availability of skilled personnel is now the No. 1 challenge leaders face, as identified by the AICPA’s new quarterly Business and Industry Economic Outlook Survey, which polls CPA decision-makers—primarily CFOs, CEOs, and controllers.

In addition to workforce challenges, globalization and technological advancements are reshaping all aspects of our world—the CPA

The significance of substantial equivalency lies in protecting the public interest by ensuring that all CPAs meet a consistent set of high-quality standards and in promoting trust and confidence in the profession.

profession included. While there's no silver bullet, formulating strategies to ensure a vibrant and sustainable future for the profession is imperative.

With this in mind, the American Institute of CPAs (AICPA) passed a resolution to develop a National Pipeline Strategy in May 2023 that included the development of a National Pipeline Advisory Group with broad representation from various accounting profession stakeholders. ConvergenceCoaching® LLC, based in Bellevue, Neb., is acting as the independent facilitator for this effort. Led by Jennifer Wilson, ConvergenceCoaching is a national leadership and management consulting firm that has worked extensively on accounting-related projects in leadership development, change management, and data analysis. (Nearly 160 Nebraska CPAs had the opportunity to engage with Wilson at the Society's Women in Accounting Summit, held Aug. 30 in Ashland.)

The National Pipeline Advisory Group began meeting in July and will report on its progress at the AICPA's Fall Council meeting in October with the intention of presenting a draft plan in May 2024. This collaborative process will result in a research-driven national pipeline strategy that, among other things, addresses the image of the profession as well as educational and experience requirements, and outlines short and long-term actions to address the profession's human capital needs.

The AICPA Council resolution affirmed a commitment to preserving mobility for CPAs while considering key components for licensure. CPA mobility refers to the ability of CPAs to practice in states other than those in which an individual is licensed, without having to obtain a new license or permit to practice from other states. This concept recognizes the evolving nature of work, where professionals frequently move or work on assignments that span multiple states. Without mobility, CPAs would have to navigate a complex web of state-specific requirements, leading to administrative inefficiencies and increased costs. Mobility streamlines the licensing process, making it easier for CPAs to serve clients across state lines.

In addition to CPA mobility, reciprocity and substantial equivalency also play a pivotal role in the efficiency of the accounting profession, safeguarding of the public interest, and facilitation of the seamless flow of talent across state and international borders.

Reciprocity in the context of CPA licensure means that a CPA who holds a license in one state can obtain a license in another state based (at least in part) on the pre-existing home-state license. Reciprocity promotes the free movement of CPAs, allowing you to pursue career opportunities wherever they arise. It is not the same as mobility.

Substantial equivalency ensures that CPA licensure standards across states are comparable in terms of the three E's: education, examination, and experience requirements, plus good moral character. The significance of substantial equivalency lies in protecting the public interest by ensuring that all CPAs meet a consistent set of high-quality standards and in promoting trust and confidence in the profession.

The National Pipeline Advisory Group has made a commitment to exploring the pipeline challenges and digging into the complex topic of substantial equivalency. As we heard from the AICPA and NASBA during the NESCPA Board of Directors meeting in August, changes in licensing requirements could cause major disruption to CPA mobility as well as to reciprocity and substantial equivalency. While the Uniform Accountancy Act (UAA) calls for 150 hours of education to be licensed, flexibility does exist in how and when that education is achieved. The Advisory Group will be discussing how to maintain the seamless mobility our profession enjoys while creating additional flexible solutions that work within the present framework.

It is everyone's goal to strengthen the CPA pipeline and ensure the sustainability of the profession. But as Jennifer Wilson of ConvergenceCoaching said during the Women's Summit, "to compete and sustain, you'll have to get faster at driving change." Do you have ideas that might offer an alternative path to the 150-hour education requirement? We need your input. We will soon be sharing a survey with you to help identify your pain points and offer potential solutions. There will be additional opportunities for input as well, including a national survey later this year. Please respond when the surveys are released or feel free to share your thoughts with me at any time at joni@nescpa.org. ◀



Joni Sundquist is president and executive director of the Nebraska Society of CPAs. You may contact her at (402) 476-8482 or joni@nescpa.org.

CHANGES PROPOSED TO ASSIST CPA CANDIDATES

BY DAN SWEETWOOD, NEBRASKA BOARD OF PUBLIC ACCOUNTANCY

A CPA EXAM TASK FORCE, CONSISTING OF LEADERSHIP FROM both the Nebraska Board of Public Accountancy (State Board) and the Nebraska Society of CPAs, was formed earlier this year to explore changes that may be needed to keep students progressing to licensure within Nebraska. During meetings this past spring, the Task Force considered a course of action on two important issues affecting CPA candidates in Nebraska: 1) whether to lengthen the timeframe, or window, for a candidate to complete all four sections of the Uniform CPA Examination (exam), and 2) whether to change to a 120-hour education requirement to sit for the CPA exam.

The Task Force was led by State Board Chairman Melissa Ruff, CPA of Deloitte. Also representing the State Board were State Board Vice Chairman Jeff Kanger of First State Bank Nebraska and Sarah Borchers, DBA, CPA of the University of Nebraska at Kearney. Representing the Nebraska Society of CPAs were Society Chairman Lori Egger, CPA of CyncHealth; Society Vice Chairman Kelly Martinson, CPA of Lutz; and Dr. Tom Purcell, CPA of Creighton University.

Changes to Exam Window Now Underway

Based on recommendations provided by the Task Force, the State Board, at its July 14 meeting, took action to proceed with amending current regulations to lengthen the exam window. Amendments to the regulations also met with the approval of the Nebraska Society of CPAs Board of Directors at its Aug. 23 meeting.

The proposed changes primarily revolve around the CPA exam and involve extending the timeframe available to candidates for passing all four sections of the exam. Currently set at 18 months, this window would be extended to 30 months. This move aligns with the April recommendation by the National Association of State Boards of Accountancy (NASBA) Uniform Accountancy Act (UAA) Committee, which called for all State Boards to transition from an 18-month window to a 30-month window, aiming to support candidates in passing the exam and to bolster the overall CPA pipeline.

In a recent survey conducted by the Nebraska Society of CPAs, the majority of Nebraska CPAs responding to the survey expressed their support for the transition to a 30-month timeframe. However,


these changes will not go into effect until regulations within Title 288, Chapter 6 receive approval from the State Board, undergo a public hearing, obtain approval from the Nebraska Attorney General's Office, and are endorsed by the Governor's Policy Research Office following submission to the Nebraska Secretary of State's Office. It is anticipated that this change will not be finalized until the end of this year or early 2024.

The State Board also addressed at its July 14 meeting the situation concerning current candidates who have successfully passed at least one section of the exam as of Jan. 1, 2023. The State Board approved a 12-month extension for these candidates, based on the anticipated transition to a 30-month timeframe, as discussed above. The State Board determined that the 12-month extension for candidates with existing credit as of Jan. 1, 2023, was justified, considering it was beyond the candidates' control as outlined within Chapter 6 regulations. Affected candidates are currently being notified of the State Board's decisions by NASBA CPA Examination Services (CPAES). CPAES is the entity that processes applications, evaluates credentials, and reports exam scores on behalf of 35 states and jurisdictions, including Nebraska.

Proposed Bill Would Allow Candidates to Sit for Exam With 120 Hours of Education

The CPA Exam Task Force delved into a second issue pertaining to the prerequisite number of college credit hours a candidate must complete before being eligible to sit for the CPA exam.

Following the Task Force's suggestions, the State Board voted to direct its staff to collaborate with the Society in revising the existing requirement. Under this proposed change, a candidate seeking to take the CPA exam in Nebraska would be eligible to do so after the completion of a bachelor's degree, or 120 semester hours of qualifying academic credit. Right now, Nebraska law requires that a candidate complete 150 hours of college education before being eligible to take the CPA exam (excluding current provisional windows). Implementing this adjustment would require amendments to the Nebraska Public Accountancy Act (PAA) and approval from both the Nebraska Legislature and Governor Jim Pillen.



The Society's recent survey, mentioned above, revealed that most Nebraska CPAs agreed with the change to allow candidates to sit for the CPA exam with 120 hours of qualifying education, as is permitted in nearly every other state in the country.

A bill amending the PAA to allow candidates to sit for the CPA exam with 120 hours of education has been drafted, and the Society Board of Directors approved moving forward with the proposed legislation during its Aug. 23 meeting. As a result, Society staff will proceed to find a state senator to introduce the bill and work with bill drafters to ensure the proposed legislation is in proper legal form. We are hopeful that the bill will be introduced during Nebraska's 108th Legislature, Second Session, which commences Jan. 3, 2024.

In addition, the State Board's Education Advisory Committee (EAC) will continue to review and provide input on regulations within Title 288, Chapter 9 to assist the State Board in determining the mandatory subject areas and education requirements before a candidate is allowed to sit for the exam at 120 hours.

Amendments to Chapter 9 will begin when and if the PAA is amended to allow candidates to sit at 120 hours of education. ◀

Anyone with questions and/or comments on these proposed changes should contact State Board Executive Director Dan Sweetwood at (402) 471-3595 or dan.sweetwood@nebraska.gov or Society President Joni Sundquist at (402) 476-8482 or joni@nescpa.org.

The Nebraska State Board of Public Accountancy administers public accountancy law in Nebraska. Six of the eight State Board members are CPAs with active permits to practice and two are members of the public.

The Nebraska Society of CPAs is a professional membership organization that supports and represents CPAs by providing resources, education, and advocacy to enhance their professional growth and development. The Society Board of Directors is the official decision-making body of the Society and presently consists of 13 member CPAs.

WHO SHOULD BEAR THE RISK OF CLIENT RETENTION?

BY ACCOUNTING PRACTICE SALES

MAINTAINING A THRIVING ACCOUNTING

or tax practice hinges on effective client retention. While that is certainly true after the purchase of a practice, it applies to established practices as well. All firm owners must be able to retain clients to survive and thrive. In the day-to-day operation of a practice, there is no guarantee clients will keep returning for services. No person owns the clients; therefore, no one can force them to stay. In theory, an owner could lose every single client tomorrow! Yet, owners typically don't worry too much about this because they realize clients can be retained successfully for years and even decades. Studies and experience confirm that clients remain loyal when owners treat them with respect, solve their problems, and meet their needs. This holds true for both new and long-time owners.

Why then is client retention the No. 1 concern of all buyers and most sellers? The widespread perception is that the bond between clients and the professional will be broken in a sale and will be difficult for a new owner to re-establish. Apprehension arises from the belief that a change in ownership will cause clients to leave the firm for a competitor or consider handling tasks themselves. Everyone has a horror story about someone who bought a practice and lost two-thirds of the clients. However, under circumstances involving a reasonable amount of care and common sense, client retention for a new owner often can be close to what would have been experienced by the previous owner.

Why is this? The answer lies in viewing the deal from the client's perspective. Many clients will not be happy about the change in ownership. This reaction stems from the understood relationship that has been built over time, although in many cases the connection with the professional is more perceived than real. Moreover, it is human nature to resist change. Paradoxically, this resistance to change can work to the benefit of the new owner.

Of course the client loved working with her former accountant or CPA and is stunned she must continue without her trusted advisor and friend. But once the initial shock fades, what are her options? She still needs accounting and tax services, and she still needs an accountant. Some well-prepared clients might have an alternative plan in place. For most people, though, the only real option is to go to the Yellow Pages and start from scratch.

The best option for the client is almost always to give the new owner a try. After all, the new owner already has her files and often may be found at the same phone number and same address as the previous owner. Often the same employees remain, and hopefully the prices are about the same. The client usually assumes that the professional she has trusted for years has properly vetted the new owner. When it comes down to it, convenience is routinely a top priority for the client. The prospect of embarking on a time-consuming journey to find a new accountant and undergo multiple interviews is usually far less appealing. If the buyer makes it a priority to reach out to the client as soon as possible, then the simplest choice for the client is to stay with the new owner.

How can buyers ensure clients will stay with them? The answer is simple really. An accountant retains new clients in the same way he or she retains any client. Again, if a buyer treats both new and existing clients fairly and addresses their needs, then most clients can be retained. It's inevitable that some client attrition will occur as a natural part of doing business. Everyone understands that. And some clients may be lost just because the change gives them a chance to go to that neighbor or cousin or to find someone closer. But the number of people who change firms just because of a change in ownership need not be that high. How many people would give the new dentist a try if they received a postcard in the mail from their old dentist saying the practice has been sold? Most people would give the new dentist a try. That is really all that can be asked.

This leads us to the crux of the matter: Who should bear the risk of client retention? *In reality, the buyer has almost all control over client retention!* The buyer makes the decisions regarding quality of services and pricing decisions that affect clients. The seller can assist the buyer with key introductions, endorsement letters, occasional problem solving, and words of encouragement. However, the seller's ultimate contribution to the deal is to bring the goodwill of the clients to the closing table, to provide a list of persons with the need for accounting services, and to use his or her influence to encourage clients to give the new owner a try. The seller simply owes the buyer loyalty and good faith support. The seller helps with client retention, but the bulk of the responsibility, by far, is with the buyer. If the new owner does not treat the clients well and provide fair solutions for them, they will leave no matter what the seller says or does. It's the buyer's actions that ultimately determine the clients' happiness in the years to come.

The buyer does, though, need to be safeguarded from unscrupulous practice owners by non-compete agreements, due diligence investigations, and legal protections. But, when two honest parties are involved, the sale can be completed on the day of closing; it does not have to drag out for an extended amount of time.

It is generally preferable to close sales on the day of closing. Then practice owners either receive all cash at closing or a substantial down payment and a note receivable at a fair rate of interest rather than a payout contingent on client retention. Buyers can look forward to owning the business full and complete from day one and to making all their own decisions regarding client retention. They will fully bear the risk and the reward of the decisions they make, not the old owners. That, of course, is the way most business transactions work in this world. Given good faith on the part of the seller and hard work of the buyer, the transfer of an accounting or tax practice often becomes a win-win situation. ◀

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KEY INVESTMENT TAX CREDIT PROVISIONS

AFFECTED BY THE INFLATION REDUCTION ACT, INCLUDING UPDATES ON TRANSFERABILITY & DIRECT PAY

BY TRISTIN S. TAYLOR & HANNAH FISCHER FREY, BAIRD HOLM LLP

THE INVESTMENT TAX CREDIT (ITC), EMBODIED IN SECTION 48 of the Internal Revenue Code (IRC), provides a substantial financial incentive designed to stimulate investment in renewable and clean energy. The ITC encourages potential investors to partake in the installation of renewable and clean energy systems, thereby promoting environmentally sustainable practices in the United States. The relevance of the ITC has surged recently, especially in the context of the current administration's focus on sustainable energy development and practices.

The ITC has been revised multiple times since 1992, the most recent revision occurring in August 2022 under the Inflation Reduction Act (Act).¹ The first portion of this article provides an overview of the requirements to qualify for the ITC in general. The second portion takes a deeper dive into the changes to the ITC implemented by the Act and related guidance, with attention to updates recently released by the Internal Revenue Service (IRS), including those related to transferability and direct pay.

GENERAL ITC REQUIREMENTS

To qualify for the ITC, eligible energy properties must satisfy three key criteria: (i) the taxpayer must own the property; (ii) the property must reach operational status within the year the credit is first claimed; and (iii) the property and project must comply with specific federal and state guidelines.²

1. Eligible Property

The ITC applies primarily to energy properties, including solar, wind, and geothermal energy properties.³ Applicable energy properties include a wide range of equipment and systems, including solar energy systems, geothermal systems, fuel cells, and small wind turbines. The Act expanded the scope of applicable energy projects to include: (i) solar facilities beginning construction before Jan. 1, 2025; (ii) standalone energy storage technology; and (iii) zero-emission projects that start construction on or after Jan. 1, 2025.⁴

An eligible property must meet the following criteria to qualify for the ITC:

- ▶ Must be constructed, reconstructed, or erected by the taxpayer;

- ▶ Depreciation or amortization must be allowable on the property; and
- ▶ Meet certain performance and quality standards promulgated by the U.S. Secretary of the Treasury, if any, in effect at the time of acquisition.

2. Ownership & Operational Status

In order to claim the ITC, the taxpayer must possess ownership of the energy property.⁵ The energy property must be “placed in service,” meaning it must be ready and available for use, in the year the tax credit is claimed.⁶ However, for property that satisfies the “beginning of construction” requirement, the ITC can be claimed if the property is placed in service by a specific deadline (usually within four years after the construction began).⁷

3. Beginning Construction

A 30% ITC is available for taxpayers who “began construction” by Dec. 31, 2019, with reduced percentages available for projects begun after this date.⁸ Two methods may be used to determine when construction begins: the “Physical Work Test” and the “5% Safe Harbor.” Continual progress towards completion is mandatory for both methods, generally requiring the project to be “placed in service” within the fourth calendar year after commencement of construction.

A. Physical Work Test

Under the “Physical Work Test,” construction is considered to have begun when physical work of significant nature has started. This test focuses on the nature of the work performed, not the amount or cost. “Physical work of a significant nature” may include any off-site or on-site physical work, such as mounting equipment, manufacturing components, or installing equipment and structures. Preparatory work or work related to the assembly of component parts of energy property would not qualify as “physical work of a significant nature.”

B. 5% Safe Harbor

The “5% Safe Harbor” stipulates that construction can be considered to have begun if the taxpayer has paid or incurred at least 5% of the total cost of the property. To qualify under the 5% Safe Harbor, taxpayers must fulfill the requirements of Section 461, which involve the three-part “All Events Test.” Under the “All Events Test,” an accrual basis taxpayer “pays or incurs” the cost when (i) all events establishing the liability have occurred, (ii) the amount of the liability can be determined with reasonable accuracy, and (iii) economic performance has occurred with respect to the liability, subject to exceptions.

RECENT ACT IMPACTS

1. Extensions & Adjustments

Before the Act, owners of qualifying energy projects could claim a tax credit up to 30% of their project’s capital costs, subject to a phase-down. The Act introduced key extensions and adjustments, including:

- ▶ Extension of ITC availability for solar facilities that commence construction before Jan. 1, 2025;
- ▶ Expanded eligibility for standalone energy storage technology; and
- ▶ Allowing taxpayers to opt for the ITC instead of the Production Tax Credit for some qualified facilities.

The Act also extended the advanced energy project credit for investments in projects that re-equip, expand, or establish certain energy manufacturing facilities.⁹

2. Credit Amounts

The ITC base rate under the IRC stands at 6% for specific energy properties (including solar, fuel cells, waste energy recovery, combined heat and power, and small wind), and 2% for microturbine property. These rates can increase to 30% for specific energy properties and 10% for microturbine property, if the project meets criteria such as:

- ▶ Payment of prevailing wages during the construction phase and the first five years of operation along with adherence to registered apprenticeship requirements (detailed below in Section 3);
- ▶ Generation of a maximum net output of less than one MW of electrical or thermal energy; or

- ▶ Construction beginning within 60 days after the IRS publishes guidance on the wage and apprenticeship requirements.

A bonus credit of 2% is available for projects that (a) meet domestic content requirements, or (b) are located in an energy community.¹⁰ This bonus credit increases to 10% for projects meeting the prevailing wage and workforce requirements described below in Section 3. To earn the domestic content bonus credit amount, the taxpayer must certify to the U.S. Secretary that any steel, iron, or manufactured product that is a component of such facility was produced in the United States.¹¹ A project is located in an energy community if it is located in a brownfield site, a statistical area that depends on fossil fuels and has high unemployment, or a census tract, or adjoining census tract, where a coal mine or coal-fired electric generating unit has closed or been retired after certain dates.

3. Prevailing Wage & Apprenticeship Requirements

In accordance with IRS Notice 2022-61, to qualify for the 30% ITC and be eligible for the 10% bonus credit amount, the energy project must satisfy the prevailing wage and apprenticeship requirements.¹² These requirements are highly detailed; this Section 3 provides a high-level summary of such requirements.

All laborers and mechanics involved in the project—whether they are employees of the taxpayer, contractor, or subcontractor—must be compensated at least the prevailing wage rates as determined by the U.S. Department of Labor under the Davis-Bacon Act for similar work within the project’s locality. The “prevailing wage” is listed for a particular classification of laborer or mechanic on the applicable wage determination for the type of construction and geographic area as determined by the U.S. Secretary of Labor. Such rates apply to hourly wages and contributions made pursuant to a fringe benefit plan, with such fringe benefits to include medical or hospital care, pensions, unemployment benefits, life insurance, vacation pay, etc.¹³ This not only applies during construction but also extends five years post-construction.

Apprentices, recognized within a registered apprenticeship program, must carry out a defined percentage of total labor hours. This begins at 12.5% for projects initiating construction in 2023, increasing to 15% for projects starting from 2024 on. Taxpayers must adhere to the U.S. Department of Labor’s prescribed apprentice-to-journeyworker ratios.

Taxpayers must also fulfill specific recordkeeping requirements concerning wage and apprenticeship data. It should be noted that IRS Notice 2022-61 does not modify the “good faith” exception, which permits taxpayers to benefit from the ITC if they can demonstrate they made an honest attempt to comply with these requirements, or the Act’s remedial provisions, which offer solutions for non-compliance.

4. Credit Transferability & Direct Pay

IRC Section 6418 permits transferring the ITC, among other certain energy

credits. On June 14, 2023, the U.S. Treasury Department and IRS released proposed regulations expanding on energy credit transferability under IRC Section 6418. This Section 4 provides a high-level summary of these proposed regulations.

A taxpayer can elect to transfer all or a portion of an eligible credit to an unrelated transferee taxpayer. However, the following requirements, attributes, and impacts apply:

- ▶ The transfer must be a one-time event;
- ▶ The transfer must be a cash purchase;
- ▶ The income from the transfer is not included in the seller’s income;
- ▶ The cost of the transfer is not deductible by the transferee; and
- ▶ The transferee cannot further transfer any part of the credit.

The taxpayer can transfer all or part of the credit to multiple taxpayers, as long as the total tax credits transferred do not exceed the project’s eligible total. Tax-exempt entities and other entities defined for direct-pay purposes are prohibited from electing to transfer credits, with an additional 20% penalty applying to “excessive credit transfers.” Taxpayers electing to transfer must complete a pre-filing registration process through an online portal and obtain unique registration numbers for each eligible property.

Similarly, direct pay (sometimes referred to as elective pay) allows eligible entities, such as nonprofits, governmental agencies, and the like, to apply to the IRS to claim a refund of the tax credit amount, which is then paid directly to such applicant. A credit that is transferred to the eligible entity is then ineligible for direct pay.

Note that the foregoing Section 4 reflects proposed regulations and guidance,

which are subject to comment and further change by the U.S. Department of Treasury and the IRS.

CONCLUSION

The ITC serves as a key financial incentive to boost investment in renewable energy projects. Eligibility for the ITC rests upon various requirements, including property ownership, operational status, and commencement of construction within specified timelines. As the recent Act has broadened the scope of eligible properties and deadlines, acquiring a thorough understanding of these evolving regulations is crucial for determining whether one is eligible for the ITC and to what extent.

As every energy project is unique, the specific legal and tax implications can vary. As such, this article should be used as a guide and not as a definitive source of advice. We recommend consulting with a Baird Holm LLP attorney and a qualified accountant for advice regarding the specific tax implications of a project. ◀



Hannah Fischer Frey is a partner and Tristin S. Taylor is an associate at Baird Holm LLP. Fischer Frey focuses her law practice in the areas of federal and state income tax law and business succession planning. Taylor’s practice focuses on corporate transactions and general corporate matters, including entity



formation, corporate governance, strategic transactions, and regulatory compliance. For more information, contact Fischer Frey or Taylor at hfrey@bairdholm.com or ttaylor@bairdholm.com, respectively.

Endnotes

- 1 See Pub. L. No. 117-169.
- 2 IRC § 48.
- 3 IRC § 48(a)(3).
- 4 IRC § 48E.

- 5 IRC § 48(a)(5)(D); See also IRS Notice 2013-29; Treas. Reg. § 1.46-3(d)(4).
- 6 IRS Notice 2013-29; IRC § 48(a)(5).
- 7 IRS Notice 2018-59.
- 8 IRS Notice 2018-59.
- 9 See IRC § 48C.

- 10 IRC 48(a)(12), (14).
- 11 IRC 45(b)(9)(B).
- 12 IRS Notice 2022-61.
- 13 These requirements are further detailed in IRS Notice 2022-61 and the Davis-Bacon Act.

2023 REVISED SCHOOL DISTRICTS AUDITING & REPORTING REFERENCE MANUAL AVAILABLE

THE 2023 EDITION OF A LONGTIME Society publication, **Nebraska School Districts Auditing & Reporting Reference Manual**, is available through the Society for \$40, plus tax and shipping.

This year's guide has been updated by members of the Society's Governmental Accounting and Auditing Committee,

coordinated by Marcy Luth of AMGL PC in Grand Island and Julie Bauman of Julie D. Bauman, CPA, PC in Falls City.

The guide has been developed to assist accountants in preparing financial statements and reports for all Nebraska School Districts and was prepared with the

cooperation of the Nebraska Department of Education and the Nebraska State Auditor's Office.

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NEBRASKA ENACTS PASS-THROUGH ENTITY TAX LAW

BY JEFF SCHAFFART & NICK BJORNSON, KOLEY JESSEN

ON MAY 31, 2023, GOVERNOR JIM PILLEN SIGNED LB754 into law. Among other changes, LB754 adds a retroactive to 2018 Nebraska pass-through entity tax, or PTET, law.

By way of background, the Tax Cuts and Jobs Act of 2017 generally limits the amount of state and local taxes that taxpayers can annually deduct from their federal income to \$10,000. This limitation is commonly referred to as the “SALT cap.” The SALT cap has stung many owners of Nebraska’s small and family-owned businesses who pay more than \$10,000 in property and state income taxes, dampening the relief intended by the 2017 federal tax bill.

PTET laws allow pass-through entities (entities taxed as partnerships or subchapter S corporations) to voluntarily elect to pay state income taxes on behalf of their owners. These laws, which have been approved by the Internal Revenue Service (Notice 2020-75) and adopted by almost all states that impose an income tax, avoid the impact of the SALT cap by shifting the tax from the business owner to the owner’s business, effectively creating a deductible business expense that is not impacted by the SALT cap.

The impact of Nebraska’s PTET law impact will be company specific, but for many business owners, Nebraska’s PTET law could be worth anywhere from \$29.60 to \$37 of federal income tax savings for every \$100 of Nebraska business income taxes paid. Businesses that are not eligible to voluntarily elect include single-member LLCs (unless they elect to be treated as a subchapter S corporation), sole proprietorships, trusts, and non-profit corporations.

Like most other states, if a pass-through entity elects to voluntarily pay Nebraska income taxes on behalf of its owners, it is on behalf of all its owners. An owner of the pass-through entity does not have the ability to “opt-out” if the pass-through entity makes the PTET election.

Net operating losses are not allowed to be used against pass-through entity taxable income. Further, to avoid state taxes being deductible from state income, the Nebraska PTET expense will be added back to taxable income for Nebraska state income tax purposes.

Nebraska’s PTET tax rate is the highest individual rate (tax rates were changed in LB754). Following LB754’s enactment, Nebraska’s highest individual tax rates are scheduled to be:

- ▶ 6.84% for 2018-2022;
- ▶ 6.64% for 2023;
- ▶ 6.44% for 2024;
- ▶ 5.20% for 2025;
- ▶ 4.55% for 2026 (note that the SALT cap is scheduled to expire at the end of 2025); and
- ▶ 3.99% for 2027 and subsequent years.

The PTET credit to owners is 100% of their distributive share of the PTET tax paid. The PTET credit is a refundable credit, where the owners receive the full amount to offset their Nebraska income tax due and could increase their Nebraska income tax refund. Nonresident individual owners of an electing pass-through entity with no other Nebraska activity would not be required to file a nonresident Nebraska income tax return. As for tiered structures, where a lower tier entity receives a PTET credit, the credit must be redistributed to its owners.

When making an election, it is important to consider the effect of a PTET election on owners’ estimated payments and nonresident withholding requirements. While the PTET statute does not require estimated payments by electing pass-through entities until 2024, in order to take the deduction for taxes paid in 2023 (depending on whether the pass-through entity is a cash or accrual basis taxpayer), the pass-through entity must make its PTET payment in 2023. If a pass-through entity elects and pays its PTET for tax year 2023, the pass-through owners could avoid having to make

further individual estimated Nebraska tax payments or may be able to reduce their third and fourth quarter estimated payments. The owners' estimated installments and any related penalty is reduced or eliminated due to the PTET credit received from the electing pass-through entity.

In addition, Nebraska's PTET law, like Colorado's, is retroactive to 2018. Pass-through entities will be able to voluntarily elect to pay prior year income taxes during 2023, 2024, or 2025, which will generate a federal income tax deduction for the year in which taxes for the prior years are paid. A pass-through entity's payment of these taxes will also generate a refundable credit for its owners equal to their pro rata or distributive share of the Nebraska income tax paid by the electing pass-through entity.

The retroactive application of Nebraska's PTET law will require a method to be implemented by the Nebraska Department of Revenue in order for pass-through entities to elect to pay Nebraska income taxes for tax years 2018-2022.

The statute provides that the individuals will claim the retroactive refund in the *time and manner* as prescribed by the tax commissioner. The statute itself does not specifically require the filing of separate amended returns for each year the pass-through entity makes a retroactive election. The authors believe the most efficient manner to implement the retroactive application of Nebraska's PTET law is to follow the Colorado Department of Revenue and use a "composite-like" form that allows a pass-through entity to elect

and submit payment. Such a form would not permit changes to previous years other than those directly related to the retroactive pass-through entity election. With this approach, the current owners would claim the PTET credit in the year the pass-through entity elects to pay the prior year income taxes. This approach, as opposed to one that requires amended returns, would avoid multiple amended returns that would have to be prepared by taxpayers and processed by the Nebraska Department of Revenue and would also make it much easier for the current owners of many pass-through entities that have undergone ownership changes since 2018 to benefit from the retroactive application of the PTET law. ◀



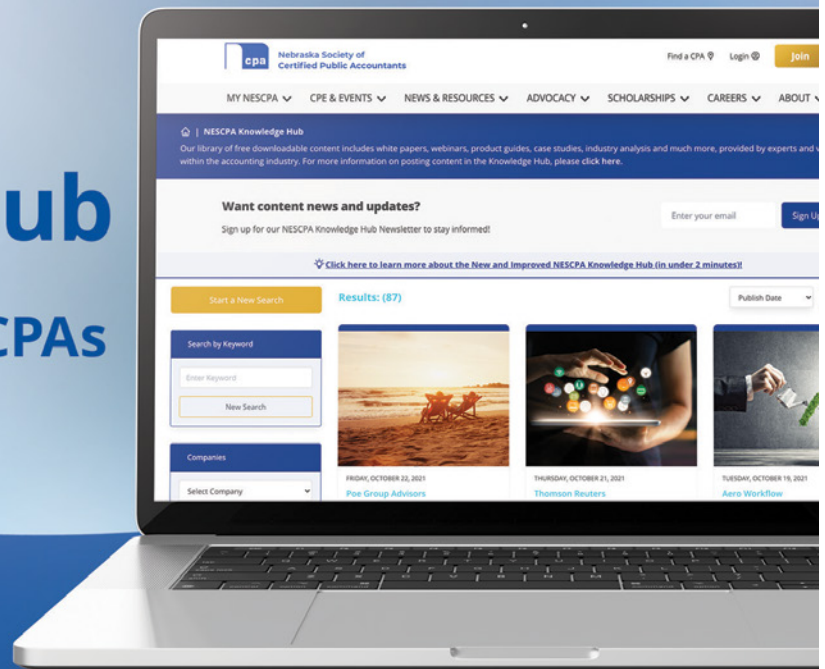
Jeff Schaffart and Nick Bjornson, both business and tax attorneys at Koley Jessen, were deeply involved in the passage of Nebraska's PTET law. Among other actions, they drafted and submitted proposed legislation to state senators, collaborated with the Omaha and Nebraska Chambers to have this law added as an amendment to LB754, testified in front of the Nebraska Unicameral's Revenue Committee in support of the PTET law, and published a commentary piece in the Nebraska Examiner advocating for adoption of a PTET law. For further details about Nebraska's PTET law or to get in touch with them, email jeff.schaffart@koleyjessen.com and nick.bjornson@koleyjessen.com, respectively.



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95TH ANNUAL MEETING

The Society's Annual Meeting will be held during the luncheon at 11:15 A.M. on October 30, featuring remarks by outgoing Chairman Lori Egger and incoming Chairman Kelly Martinson.

CONFERENCE AGENDA

Monday, October 30, 2023

- 7:00 A.M. REGISTRATION & CONTINENTAL BREAKFAST
8:00 A.M. A VISION FOR NEBRASKA'S FUTURE
–Governor Jim Pillen
9:00 A.M. Q&A WITH GOVERNOR JIM PILLEN
–Former Governor Dave Heineman, Moderator
9:35 A.M. BREAK
9:50 A.M. ACCOUNTING FIRM SUPER SESSION
–Bob Lewis, The Visionary Group
11:15 A.M. LUNCHEON & ANNUAL MEETING
–Election of New Leadership & Recognition of Scholarship Winners,
Society Award Recipients & New CPA Certificate Holders
12:45 P.M. STATE OF THE PROFESSION
–Anoop Mehta, CPA, CGMA, AICPA Immediate Past Chairman
2:10 P.M. BREAK
2:25 P.M. RAISE THE AWARENESS & VALUE OF YOUR
ORGANIZATION USING AI
–Chuck Gallagher, CSP
3:50 P.M. BREAK
4:00 P.M. LEADERSHIP LESSONS FROM A TOP GUN PILOT
–Ted Carter, University of Nebraska System President
5:25 P.M. FIRST DAY OF CONFERENCE ADJOURNS

Tuesday, October 31, 2023

- 7:30 A.M. CONTINENTAL BREAKFAST
8:00 A.M. OUTLOOK FOR NEBRASKA'S ECONOMIC FUTURE
–Josie Schafer, University of Nebraska at Omaha
9:30 A.M. BREAK
9:45 A.M. A&A UPDATE: THE LATEST IN AUDITING AND ACCOUNTING
–Tom Graskopf, AICPA Center for Plain English Accounting
11:10 A.M. LUNCH
12:00 P.M. STATE & FEDERAL TAX UPDATE
–Brian Klintworth, Tax Partner, HBE LLP
1:25 P.M. BREAK
1:40 P.M. ETHICS & DIFFICULT CONVERSATIONS
–Professor Kristen Blankley, University of Nebraska College of Law
3:40 P.M. CONFERENCE CONCLUDES

REGISTRATION FORM

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Q: What is the criteria to be eligible for the program?

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2023 NESCPA COURSE CALENDAR

DATE	TYPE	EVENT TITLE	VENDOR	LOCATION	CPE/ ETHICS HOURS
OCTOBER					
10/12	TX	The Top Five Tax Issues in Dealing With LLCs & Partnerships	Surgent	Live Webcast	4
10/17	TX	Real Estate Taxation: Critical Considerations	Surgent	Live Webcast	4
10/18	TX	2023 Nonprofit Virtual Series: A&A and Tax Update	Real World Seminars of Georgia	Live Webcast	2
10/19	AA	Accounting & Auditing Update for the Real World	Real World Seminars of Georgia	Live Webcast	8
10/19	MA	Management & Leadership Essentials	AHI Associates	Live Webcast	8
10/19	TX	Limited Liability Companies: Losses, Liquidations, Terminations, Continuations & Sales	Surgent	Live Webcast	4
10/20	AA	Accounting & Auditing for Small Businesses	AICPA	Live Webcast	8
10/20	AA	2023 Preparation, Compilation & Review Update for the Local Firm	Real World Seminars of Georgia	Live Webcast	8
10/23-10/26	AA	AHI Staff Training: Basic	AHI Associates	Live Webcast	24
10/24	AA	Yellow Book: Application of GAGAS Principles	AICPA	Live Webcast	4
10/24	FN	Corporate Finance Checkup	The Knowledge Institute	Live Webcast	8
10/24	TX	S Corporations: Key Issues, Compliance & Tax Strategies	AICPA	Live Webcast	8
10/24	AA	Accounting for Revenues & Expenses in a Not-for-Profit	AICPA	Live Webcast	4
10/26	AA	Interpreting the New Revenue Recognition Standard: What All CPAs Need to Know	AICPA	Live Webcast	4
10/26	AA	2023 Nonprofit Virtual Series: Planned Giving	Iowa Society of CPAs	Live Webcast	2
10/26	AA	The Bottom Line on the New Lease Accounting Requirements	AICPA	Live Webcast	4
10/27	TX	Advanced Taxation of LLCs & Partnerships	AICPA	Live Webcast	8
10/27	TX	Social Security & Medicare: Planning for You & Your Clients	Surgent	Live Webcast	8
10/30-10/31		Fall Conference	Nebraska Society of CPAs	Crete Carrier Riverview Lodge at Mahoney State Park, Ashland	16/2
10/31	TX	Advanced Tax Planning for S Corporations	AICPA	Live Webcast	8
10/31-11/2	AA	AHI Staff Training: Beginning In-Charge	AHI Associates	Live Webcast	24
10/31	MA	Advanced Management & Leadership Essentials	AHI Associates	Live Webcast	2
NOVEMBER					
11/2	AA	Applying the Uniform Guidance in Your Single Audits	AICPA	Live Webcast	8
11/2	TX	Top 10 Questions From Partnership Clients Regarding the Section 754 Election	Surgent	Live Webcast	4
11/2	TX	Taxation of the Mobile Workforce	Surgent	Live Webcast	2
11/13-11/16	MA	Management & Leadership Essentials	AHI Associates	Live Webcast	24
11/14	TX	Critical Issues Involving Taxation of Construction Contractors	Surgent	Live Webcast	4
11/15	AA	Four Most Overlooked Business Risks	The Knowledge Institute	Live Webcast	8
11/16	AA	Real Frauds in Not-for-Profits	AICPA	Live Webcast	4
11/16	TX	The Complete Guide to Payroll Taxes & 1099 Issues	Surgent	Live Webcast	8

DATE	TYPE	EVENT TITLE	VENDOR	LOCATION	CPE/ ETHICS HOURS
11/16	AA	Contract Accounting & Lease Accounting & Their Impact on Construction Contractors	AICPA	Live Webcast	2
11/17	TX	The Complete Trust Workshops	Surgent	Live Webcast	8
11/17	TX	Select Estate & Life Planning Issues for the Middle-Income Client	Surgent	Live Webcast	4
11/20	TX	Buying & Selling a Business: Tax & Structuring Overview	Surgent	Live Webcast	4
11/20	TX	Tax Planning for Small Businesses	AICPA	Live Webcast	4
11/20	MA	Women's Leadership Series: Celebrating Women's Entrepreneurship Day	Virginia Society of CPAs	Live Webcast	
11/20	TX	Maximizing Your Social Security Benefits	Surgent	Live Webcast	4
11/21	AA	Best Practices in Not-for-Profit Accounting & Reporting	Surgent	Live Webcast	4
11/21	AA	Understanding & Testing Control & Compliance in a Single Audit	Surgent	Live Webcast	4
11/27	TX	Employer's Handbook: Health Care, Retirement & Fringe Benefit Tax Issues	Surgent	Live Webcast	4
11/28	AA	Construction Contractors: Auditing Considerations	AICPA	Live Webcast	4
11/28	AA	Construction Contractors: Non-Revenue & Non-Lease Accounting Considerations	AICPA	Live Webcast	4
11/28	MA	Advanced Management & Leadership Essentials	AHI Associates	Live Webcast	2
11/29	AA	Non-GAAP Financial Statement Options: Cash, Modified Cash & Tax Basis	Surgent	Live Webcast	4
11/29	AA	How FASB Activities Will Impact NFP Financial Reporting	AICPA	Live Webcast	2
11/30	TX	Federal Tax Update: Individuals & Business	TaxSpeaker	Live Webcast	8
DECEMBER					
12/1	TX	Four Tiers of Loss Limitations: A Guide to the Rules for Pass-Through Entities	Surgent	Live Webcast	4
12/4-12/5	TX	Two-Day Federal Tax Update: Individuals & Business	The Tax U	UNO Thompson Center, Omaha	16
12/5	TX	Getting Ready for Busy Season: Key Changes Every Tax Practitioner Should Know	Surgent	Live Webcast	4
12/7	TX	2023 Real World Tax Update for Individuals & Entities	Real World Seminars of Georgia	Live Webcast	8
12/7	TX	Federal Tax Update	Surgent	Live Webcast	4
12/8	MA	The Strategic CFO	The Knowledge Institute	Live Webcast	8
12/11	TX	Key Partnership & S Corporation Tax Planning Strategies	Surgent	Live Webcast	4
12/11	AA	Nonprofit & Accounting & Financial Reporting	Paul H. Koehler, CPA	NESCPA Office, Lincoln	8
12/11-12/14	MA	Advanced Management & Leadership Essentials	AHI Associates	Live Webcast	16
12/11	TX	S Corporation Taxation: Advanced Issues	Surgent	Live Webcast	4
12/12	TX	Preparing Individual Tax Returns for New Staff & Paraprofessionals	Surgent	Live Webcast	8
12/12	AA	Governmental Accounting & Auditing Update	Paul H. Koehler, CPA	NESCPA Office, Lincoln	8
12/13	TX	Tax Forms Boot Camp: LLCs, Partnerships & S Corporations	Surgent	Live Webcast	8
12/14	TX	S Corporation, Partnership & LLC Tax Update	Surgent	Live Webcast	4
12/15	TX	Fiduciary Income Tax Returns: Form 1041 Workshop With Filled-in Forms	Surgent	Live Webcast	8

RESOLVING STATE TAX & INCENTIVE DISPUTES

PART 2: SALES & USE TAX AUDITS & APPEALS

BY NICK NIEMANN & MATT OTTEMANN, MCGRATH NORTH LAW FIRM

THIS ARTICLE IS THE SECOND IN OUR SERIES REGARDING HOW to achieve optimal results in resolving certain types of state tax and incentive disputes. We are dedicating Part 2 of this series towards sales and use tax audits and appeals.

State Tax & Incentive Defense Protocol

In Part 1 of this series, we discussed that, in resolving any state tax and incentive dispute, we follow a certain tax resolution protocol we've developed over many years. This helps to ensure that we have considered all potential defenses and taken other actions that help achieve optimal resolution of the dispute.

The main components of this protocol were referenced in Issue 2, 2023 of the Nebraska CPA magazine. We apply this protocol in resolving sales and use tax audits, protests, and appeals and many of the common issues in those audits, protests, and appeals that we see.

Key Issues in Sales & Use Tax Audits & Appeals

While each company's situation is different and has something unique about its business and business model, our experience in handling sales and use tax audits and appeals over many years has highlighted certain issues that arise in many audits, protests, and appeals.

We are focusing on several of the key issues we have seen arise in multiple situations, so you can help your clients address these issues and prepare for the potential that the Nebraska Department of Revenue will audit, or assess tax, based on these types of issues.

The first step in resolving an issue is to plan ahead to avoid it.

While these certainly do not represent all the issues we are seeing, these are among the most common—and apply to multiple industries. We are not addressing here the sales tax issues that arise under Nebraska's tax incentive projects.

Issue: Taxable Nexus

The most fundamental question for any company is whether that company has sufficient presence in a state to be subject to that state's laws.

Issue: Sales Tax on Software Development

The Department of Revenue often questions whether sales tax is due on custom software developed by outside consultants, normally in staff augmentation projects.

Issue: Software Used in Multiple States

The Department of Revenue has often taken the position that, if software meant to be used by company personnel across the country is first delivered to Nebraska, the amount spent on such software is wholly subject to Nebraska tax.

Issue: Where a Transaction Is Sourced

The place at which a transaction is sourced comes up especially in direct mail, telecommunications, and export sales.

Issue: Tax on Cloud Computing/Data Center Services

The taxation of cloud computing and data center services is often being challenged—in Nebraska as well as in other states.

Issue: Tax on Digital Goods & Services

The tax law is developing, along with the technology and new business models, on how a transaction involving digital goods or services is classified for tax purposes.

Issue: Bundled Transaction Rules

An improperly structured purchase transaction, in which a purchaser receives multiple goods or services for one, non-itemized price, can cause tax to be imposed on the purchase of otherwise nontaxable goods or services.

Issue: Classification as Taxable Goods or Nontaxable Services

Whether a purchase transaction is taxable tangible personal property or nontaxable services, is based on a multiple-factor test.

Issue: Manufacturing Sales Tax Exemption

Purchase of manufacturing equipment is exempt from sales/use tax if purchased direct by a manufacturer. It needs to be clear whether equipment is purchased directly by a company (versus a contractor) and whether the company qualifies as a manufacturer.

Issue: Business Buyer's Liability for the Seller's Unpaid Taxes

In certain cases, Nebraska tax law can require the purchaser of a business to pay the unpaid taxes of the predecessor owner.

Issue: Use-Based Exemptions

These types of exemptions depend on the scope and nature of the specified use of the product by the purchasers.



Issue: Transfers Between Owners & Their Entities or Between Related Entities

While many transfers between owners, and related entities, can be tax free, a number of conditions must be met under Nebraska tax law for that to be the result.

Issue: Product-Based Exemptions

These types of exemptions depend on the true nature of the product.

Issue: Agricultural Exemptions

Nebraska has several exemptions available for agricultural producers, but these have various requirements that must be met to qualify.

Issue: Energy Use Exemption

Nebraska's exemption for energy usage is significant but contains multiple conditions that can be the subject of questions with the Department of Revenue.

Issue: Entity-Based Exemption

The issue here is whether the entity meets the requirements for being sales-tax exempt.

Issue: Lease or Purchase

Whether a transaction, despite its form, is fundamentally a lease or purchase impacts the sales taxation.

Issue: Pollution Control Refund

Nebraska law establishes a tax refund available for equipment used in pollution control. Qualification is a multi-step process that includes review by the Nebraska Department of Environment and Energy.

Issue: Property Used by Business or Component Part of Another Product

For businesses, it is often a question of whether an item is consumed by that business (and therefore taxable) or whether it becomes a component part of the products that the business itself makes.

Issue: Contractor Sales Tax Compliance

Sales tax compliance is a significant issue for contractors and those selling building materials.

Issue: Common & Contract Carriers

Property used by common and contract carriers may be exempt from tax, but classification as a carrier comes with a variety of specific conditions.

Issue: Taxation of Aircraft

The ownership or lease of a private aircraft in Nebraska comes with several issues, including whether the initial purchase is eligible for a tax exemption in Nebraska.

Issue: Data Processing & Data Centers

The Department has been working to treat a portion of otherwise nontaxable data processing and data center fees as taxable security service fees.

Issue: Tangible Property Versus Real Property

The taxation of the purchase of personal property varies significantly from the purchase of real property. Classification of property as being real or personal is based on a multi-factor test.

Issue: Sampling & Projection

The Department's sampling and projection methods often have a significant impact on the results under a sales and use tax audit. A good deal of challenges can be brought against an inappropriate method.

Issue: New Technology & New Business Models

As new technologies and new business models are being developed, the Department has been continuously looking at ways to impose taxation.

Issue: Proper Protest

The Department of Revenue has firm regulations on the requirements needed to file a proper, legal protest to a Department assessment. We are brought in at all stages of a dispute to help that dispute be resolved as favorably as possible. Still, when we're brought in after an assessment is issued, we work with our clients to ensure that their protest meets all the Department's regulatory requirements to challenge an assessment and that the protest properly requests a full administrative hearing. We've also addressed, in Issue 1, 2023 of the Nebraska CPA magazine, when legal counsel is required to be involved in a protest or appeal to a Department assessment.

Using the Tax Incentive Protocol

Optimal results can be achieved for each of these issues by following the "State and Local Tax and Incentives Resolution Protocol" available at www.NebraskaStateTax.com. ◀



Nick Niemann and Matt Ottemann are partners with McGrath North Law Firm.



As state and local tax and incentives attorneys, they collaborate with CPAs to help clients and companies evaluate, defend, and resolve tax matters and obtain various business expansion incentives.

For more information, go to www.NebraskaStateTax.com and www.NebraskaIncentives.com. For a copy of their full publication, "The Anatomy of Resolving State Tax Matters," or their "Nebraska Business Expansion Decision Guide," visit their websites or contact them at (402) 341-3070 or at nniemann@mcgrathnorth.com or mottemann@mcgrathnorth.com, respectively.



Buffie Somers has established a Field of Interest Fund, which will be funded from her estate, to ensure the causes she cares about receive support even after she's gone.

A LEGACY OF LEARNING

Omaha Woman's Field of Interest Fund Will Empower Children Through Experiential Learning

BY THE OMAHA COMMUNITY FOUNDATION

AFTER A LIFETIME DEDICATED TO teaching special education, Buffie Somers decided a Field of Interest Fund was the best way to ensure her work will continue for the next generation.

While growing up in her tight-knit hometown of Winfield, Kan., Somers observed the way her parents quietly cared for neighbors in need, newly arrived immigrants, and those facing adversity. The compassion displayed by her parents became an integral part of her own life.

A Life of Service

In the seventh grade, Somers' class went on a field trip to a state hospital housing children with intellectual disabilities.

"Our 'tour' was in the pediatric ward—the most depressing room one can imagine. Walls painted a pale color of gray, and walls lined with baby beds," she recalled. "I learned from the hospital administrator that most of these severely handicapped babies would die before the age of 10 due to 'lack of mother's love,' which of course was the layman's term. In the '60s, these babies were given up, put in a bed, and pretty much forgotten."

Somers, a preteen at the time, took action and became the first volunteer in this ward, saving money for a rocking chair so she could cradle and comfort each baby. Her dedication to this effort continued throughout her college years.

Her commitment and service to young people didn't end there. Throughout her career, she worked as a teacher, and even in her retirement years, she continued to volunteer, with a focus on supporting children with disabilities. Perhaps most notably, she has been a long-time volunteer at the Heart Ministry Center, which provides food, healthcare, and a way forward to people severely affected by poverty in the Omaha area.

"My entire adult life I have been a teacher—a teacher to both children with severe cognitive delays and a teacher to

children who have become doctors and lawyers,” Somers said. “Each and every one of them made a difference in my life.”

Making Room for the Disenfranchised in Her Will

When Somers began drafting her will, she made a deliberate choice to allocate a portion of her estate to the Omaha Community Foundation, so she can continue contributing to the community and its children long after she’s gone.

She collaborated with the foundation team to establish a Field of Interest Fund geared towards providing grants to nonprofit organizations that offer experiential learning opportunities. This will enable children, particularly those with disadvantages or special needs, to engage in programs that encompass art, nature, and animals.

“The goal is to empower children to become extraordinary people,” Somers said.

A Field of Interest Fund empowers donors like Somers to direct their gifts toward specific needs within the community. Donors identify their areas of interest. Then, the fund sponsor (in this case, the Omaha Community Foundation) identifies nonprofit organizations making an impact in that chosen area and issues grants from the fund accordingly.

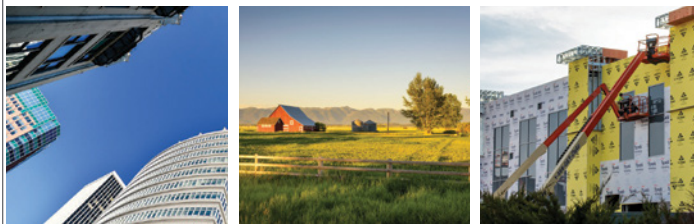
Establishing a Field of Interest Fund

When your client opens a Field of Interest Fund within a community foundation, the foundation’s team will collaborate with you and your client to create a fund agreement that reflects the client’s personal values and long-term goals. Your client can name the fund and define the target cause, geographical scope, and timeline.

Field of Interest Funds may be used to support causes during a person’s lifetime and in perpetuity. Moreover, they offer the opportunity for individuals to participate in the decision-making process by becoming part of the committee that selects which nonprofits receive support. Over time, these funds may evolve to serve the community as nonprofits grow and change to respond to future needs. ◀

To learn more about Field of Interest Funds, contact the Donor Services team at the Omaha Community Foundation at (402) 342-3458 or giving@omahafoundation.org.

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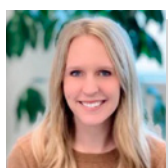
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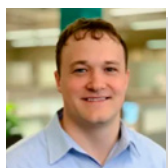
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Members *in the News*



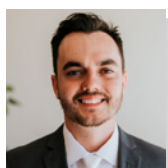
Katherine A. “Katie” Blycker, CPA, has been promoted to client advisory services manager at Lutz in Omaha. She specializes in small business consulting, including financial statement reporting and management analysis, with a focus on the healthcare industry. In addition, she provides outsourced accounting assistance and software training and support. Blycker began her career in 2016.



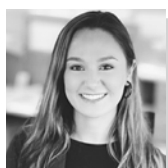
James J. “Jimmy” Burgess, CPA, has been promoted to client advisory services manager in Lutz’s Omaha office. He specializes in small business consulting, outsourced accounting, and payroll and income tax compliance with a focus on the construction industry. Burgess began his career in 2014.



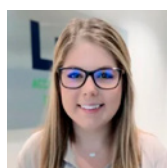
Kelsey M. Folkers, CPA, has been promoted to senior accountant in the tax department in Lutz’s Omaha office. She is responsible for preparing individual and business income tax returns for clients in various industries. In addition, she provides training and support for accounting interns.



Thomas E. Geiger, CPA, has been promoted to senior accountant in the audit department in Lutz’s Grand Island office. He is responsible for performing audits, reviews, and compilations for clients in a variety of industries.



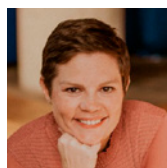
Kathryn L. Harrison, CPA, has been promoted to senior accountant in the client advisory services department in Lutz’s Omaha office. She specializes in outsourced accounting services, general accounting services, and financial statement preparation for clients.



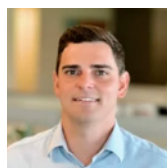
Kelli N. Hesselgesser, CPA, has been promoted to client advisory services manager in Lutz’s Grand Island office. She specializes in tax planning and consulting for businesses and individuals. In addition, she provides outsourced accounting assistance and collaborates with clients to prepare accurate financial data. Hesselgesser began her career in 2017.



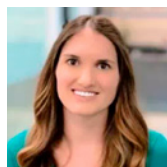
Brett D. Holtzen, CPA, has been promoted to senior accountant in the tax department in Lutz’s Lincoln office. He specializes in offering tax consulting and compliance services to clients with a focus on individual and business income tax returns for a variety of industries.



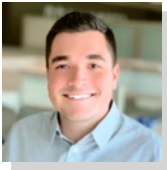
Kelly A. Mann, CPA, has been appointed to the American Institute of Certified Public Accountants (AICPA) Employee Benefit Plans Expert Panel for 2023-2024. This prestigious appointment reflects her commitment to excellence and innovation in the field of accounting and auditing. Mann is the co-founder and CEO of AuditMiner, a technology-driven audit software company based in Omaha. More than 50 top 100 CPA firms and 200 additional firms use the AuditMiner software platform in all 50 states.



Jeffrey S. “Jeff” Paesl, CPA, has been promoted to audit director at Lutz in Omaha. He specializes in providing accounting, auditing, and consulting services for privately held companies in various industries with a focus on Sanitary and Improvement Districts (SIDs). Paesl began his career in 2011.



Katie C. Roberts, CPA, has been promoted to healthcare director in Lutz’s Lincoln office. She is responsible for providing accounting and consulting services to healthcare organizations and critical access hospitals with a focus on outsourced CFO services and reimbursements. Roberts began her career in 2015.



Austin W. Sabaliauskas, CPA, has been promoted to tax manager in Lutz’s Omaha office. He is responsible for providing tax consulting and compliance services to clients with a focus on the construction and real estate industries. Sabaliauskas began his career in 2017.

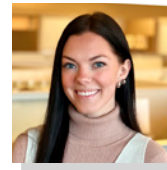


Tracy A. Schmitt, CPA, has been named finance director at the Grand Island Regional Medical Center (GIRMC) and Merrick Medical Center, both of which are affiliated with the Bryan Health system. She most recently served as controller at GIRMC. Schmitt earned a Bachelor of Science in Business Administration with an emphasis in accounting from the University of Nebraska at Kearney. She has served as a volunteer with Junior Achievement and as treasurer of the board for Leadership Tomorrow.

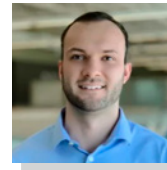


Bryan E. Slone has been awarded this year’s Presidential Medal of Service by University of Nebraska System President Ted Carter. The award is the highest honor the president can bestow upon a community member and

recognizes Nebraskans’ support and advocacy for the NU System and higher education within the state of Nebraska. Slone serves as president of the Nebraska Chamber of Commerce & Industry.



Tanner R. Stalsberg, CPA, has been promoted to senior accountant in the audit department in Lutz’s Omaha office. She provides auditing and consulting services to a variety of clients with a focus on the Sanitary and Improvement District (SID) industry. In addition, Stalsberg plays a critical role in internal staff training and development.



Michael J. “Mike” Tichenor, CPA, has been promoted to audit manager in Lutz’s Omaha office. He is responsible for providing assurance services to clients with a focus on the construction, agriculture, and manufacturing industries as well as employee benefit plans. Tichenor began his career in 2018. ◀

Firms in the News



Ellinger & Cappel LLC has moved into a new location at 109 West 8th Street in McCook. The McCook Chamber of Commerce and members of the community came



together to help the firm celebrate its location change with a ribbon-cutting ceremony. Ellinger & Cappel was founded in 2014 by **Nikki L. Cappel, CPA**, and the late Terry Ellinger.



new website at frankel.cpa.

Frankel Zacharia in Omaha has officially changed its name to **Frankel LLC** and has launched a



Lutz has announced various management changes over the next several years. **Mark F. Duren, CPA**, will begin transitioning his



responsibilities as managing shareholder and chairman of the board to **Ryan M. Cook, CPA**, over the next three years. Duren started at Lutz in 1992 and has held numerous leadership roles, including long-term membership on the firm’s board of directors, department head of both the tax and audit practices, and managing shareholder since 2015. Cook is president of Lutz’s largest division, Lutz Accounting. He has been instrumental in managing many of the firm’s strategic initiatives. In addition,



Ronald J. “Ron” Nebbia, CPA, will begin transitioning his duties as president of Lutz’s financial, M&A, talent, and tech divisions over the next two years to various existing leaders within these divisions. Nebbia joined the firm in 1987 and has been instrumental in many positions, serving as a long-time board member, managing internal operations, and inspiring the evolution of new service offerings. Over the last decade, Lutz has doubled its full-time team member count, added 10-plus service offerings, and expanded across Nebraska with offices in Omaha, Lincoln, and Grand Island.

The following firms, either based in Nebraska or doing business in Nebraska, have been recognized by Inside Public Accounting (IPA) as top firms in the U.S. by participating firms’ net revenue. The IPA annually ranks the largest accounting firms, which are growing quickly despite an unprecedented labor shortage and rapidly rising costs. The data was drawn from responses to IPA’s annual practice management survey and analysis of firms. Learn more at <https://insidepublicaccounting.com/top-firms/ipa-500>. ◀

1	Deloitte / New York
4	KPMG LLP / New York
5	RSM US LLP / Chicago
8	FORVIS LLP
17	Eide Bailly LLP
63	BerganKDV LTD / St. Cloud, MN
74	Lutz / Omaha
286	HBE LLP / Lincoln
322	Bland & Associates PC / Omaha
362	Hancock & Dana / Omaha
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IN Memoriam



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*The Society has made a donation to
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Calvin Musil, Wayne State College, Wayne
Marde Thomas, Central Community College, Hastings

Learn more about the Society and the benefits of membership at nescpa.org/about/why-join.



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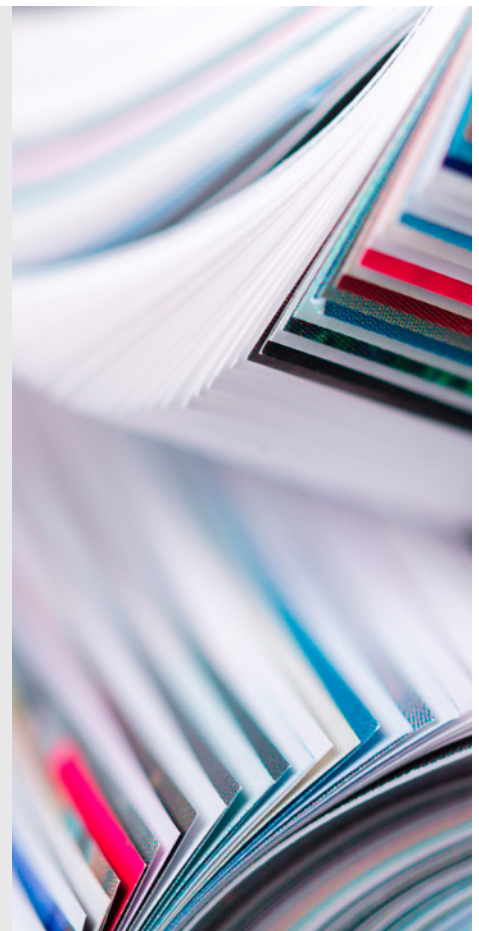
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