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# NJ Taxing TIMES

## MESSAGE from the PRESIDENT



### ARE YOU READY....TO GET SET....AND GO....INTO NEXT TAX SEASON?

Well if the past year is any indication, the NJ Chapter can definitely say, "Yes". The New Jersey Chapter will continue our tradition of providing our members with first class education opportunities this winter. We have scheduled two information packed seminars this winter that are sure to provide a boost to your practice. They will both

be held at the APA Hotel Woodbridge in Iselin, NJ and registration details can be found on our website hyperlink, [www.njnatp.com](http://www.njnatp.com) and on our Chapter's Facebook page. We will also be sending details in our bi-monthly emails along with important news and updates.

First on December 8th, our Chapter is hosting a four-hour seminar on senior issues and nonprofits. This IRS continuing education qualified seminar will be packed with practical and new information that will assist all tax preparers. Then, on January 14th, the NJ Chapter will continue our relationship with the NJ Division of Taxation, presenting our **Famous NJ State Tax Seminar**. This eight-hour seminar will feature the NJ Division of Taxation University's speakers and has been one of the best education opportunities for New Jersey practitioners for many years. Please register early, this seminar fills up very quickly.

As we reported in our last edition of *NJ Taxing Times*, The New Jersey Chapter continues to be one of the largest and most productive chapters in the country. With this being said, the NJ Chapter continues to look for members who are willing to help out in many different ways. Whether you are interested in joining the Board of Directors, writing a newsletter article, helping out at a seminar or engaging in community betterment, we definitely need your help. Please reach out to a Board member at a seminar, reply to one of our emails, post on Facebook®, email us from our website or give us a call. We greatly appreciate your help and input as it continues to be the driving force of the Chapter.

I would like to congratulate our new Board members. Both **Kiran Desai** and **Michael Fox** were elected to the Board of Directors for the 2017 year and **Anthony Manziano** was re-elected to the Board as well. In addition, the Board of Directors has appointed **Teresa Marron** as member at large director. We appreciate and thank our members for their time and energy in keeping our Chapter true to its mission.

Finally, and most important, I would like to take a moment to just say thank you to the so many people that have helped me as president this year. The Board of Directors from both the NJ and National level, members of our Chapter, and especially my family, have all supported me and given me the energy and support to help lead our Chapter. It is something I have taken very seriously, and thank you for the opportunity. And I look forward to helping our members and the Chapter in the future.

I hope to see you at our Chapter's December 8th seminar. *Also, I would like to wish you and your family a very happy, healthy and safe holiday season!*

Tom

*Thomas Watkins, EA, has been a NATP member for 19 years and is the owner of Eagle Financial, an accounting and financial services company located in Totowa, NJ. He can be reached at: [eaglefinancial@gmail.com](mailto:eaglefinancial@gmail.com).*

## HEARTFELT MESSAGE AS MY TERM COMES TO AN END

BY MARILYN AYERS, CPA



**I JOINED THE NEW JERSEY NATP BOARD OF DIRECTORS IN APRIL 2004 BY INVITATION.** I went to a NATP 1040 update class in Atlantic City in the fall of 2003 and two Board members got up and gave a pitch about needing Board members. So I approached Sherry Diamond and Colette Taylor and said I was interested. In the spring, I was invited to attend a Board meeting to see if I wanted to join the Board. *Who knew where that would take me over the next 12 years!*

I will complete my term as a Board of Director December 31, 2016. As a past president, I will remain active on the Board and attend Board meetings and functions as I have for the past 12 years, but in a different role.

I want to publically thank not just Sherry and Colette but also Jean Millerchip, Jaimee Hammer and Willie Lau for their support and encouragement during my years as Secretary, Vice President and President. Our Chapter is so fortunate to have such wonderful leadership over the past 20 years!

During my tenure, I have made wonderful friends, learned quite a bit about being a leader both on the Board and in my practice, expanded my tax expertise, earned my certification to teach and pursued options I never dreamed of before the NJ-NATP Board. I truly am not the same person that I was when Colette and Sherry talked with me many years ago.

My years as a NJ- NATP Director have been very rewarding and I hope you will consider joining the Board next time you are approached by a Director. It is one of the best decisions I made and I am thankful for the opportunity to serve.

*See you at our next NJ-NATP Seminar!*

*Marilyn H. Ayers, CPA is in private practice in Brick, NJ. Marilyn has been a member of the Board for twelve years and is a past president of our Chapter. The New Jersey Chapter earned the Chapter of the Year Award at the National Conference during Marilyn's tenure. Marilyn may be reached at: [marilyn@mhacpanj.com](mailto:marilyn@mhacpanj.com).*

## SAVE THE DATES!

**December 8, 2016: THE FUNDAMENTALS OF NON-PROFITS & TAX ISSUES FOR SENIORS**

FOR DETAILS SEE FLYER INSIDE

**January 14, 2017: FAMOUS NJ STATE TAX SEMINAR  
APA HOTEL WOODBRIDGE**

*See Details in the Flyer on Page 8. Look for announcements in your email!  
Check [www.njnatp.com](http://www.njnatp.com) for updates under the Events tab. Check the NJ-NATP Facebook® page!  
Education that is second to none in the great State of New Jersey and some pretty darn good company to hang out with as well!*

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## Filing a Qualified Amended Return to Avoid Accuracy Penalties

BY MEGAN L. BRACKNEY, ESQ.



**NEITHER THE INTERNAL REVENUE CODE** ("I.R.C.") nor Treasury Regulations requires taxpayers to file amended returns. However, the ethical rules of Circular 230, the NAEA, and the AICPA call for tax practitioners to advise their clients about errors or omissions in their tax filings. Once you have advised your client about an error, the client likely will ask you "should I correct the error, and, if so, how?" Under certain circumstances, a qualified amended return, or "QAR," may provide a method for correcting an error without penalties.

A QAR is an amended return that corrects an error in a previously filed return before the IRS contacts the taxpayer about that return. Specifically, in order to be a QAR, the taxpayer must file the amended return before he or she is first contacted by the IRS about an examination (including a criminal investigation) of the return at issue and before the IRS contacts a pass-through entity in which the taxpayer is a partner or a member about an audit of its return. Other less common disqualifications for a QAR are, if, before the taxpayer files the amended return, the promoter of an abusive transaction in which the taxpayer participated is already under audit, the IRS has issued a third party summons to any person, group, or class to which the taxpayer belongs regarding any activity for which he or she reported a tax benefit, or the IRS has announced a settlement initiative or compromise for a listed transaction in which the taxpayer participated.

The effect of a QAR is to reduce or eliminate the accuracy penalty under I.R.C. § 6662 on the amount shown as additional tax on the QAR. The I.R.C. § 6662 penalties are for negligence or disregard of rules or regulation, substantial understatement of income tax, and substantial valuation misstatements or gross valuation misstatements. A QAR will not prevent the IRS from assessing fraud penalties or penalties under other IRC sections, as the QAR Regulations only provide for reduction in I.R.C. § 6662 penalties.

That a QAR cannot be used to avoid fraud penalties is consistent with the Supreme Court's analysis in *Badaracco v. Comm'r*, in which it considered the impact of filing an amended return correcting a previously filed fraudulent return. The Supreme Court held that the filing of non-fraudulent amended income tax return following

the filing of a fraudulent return did not trigger three-year period of limitations for assessment under I.R.C. § 6501. The Supreme Court held that "once a fraudulent return has been filed, the case remains one 'of a false or fraudulent return,' regardless of the taxpayer's later revised conduct, for purposes of criminal prosecution and civil fraud liability." If you are concerned that the client's original return was fraudulent, you should not attempt to file a QAR, but should consider other options, such as making a voluntary disclosure.

A question that is commonly asked in this context is whether the filing of a QAR will extend the statute of limitations for assessment for that tax year. The answer is generally, "no," but there is one narrow exception. Section 6501(c)(7) states that if the taxpayer files an amended return showing that the taxpayer owes additional tax 60 days before the statute of limitations would otherwise expire, the statute of limitation is extended for 60 days after the IRS receives the amended return.

Another question that may arise is whether an amended return must correct all errors. The answer to this question is, unequivocally, "yes." The amended return, like the original tax return, is the taxpayer's representation to the IRS that all information on the return is true, correct, and complete to the best of his or her knowledge. To file an amended return that does not correct all known errors is to file a false return. Accordingly, if you are planning to submit a QAR on behalf of a client, make sure that all incomplete and/or incorrect items are addressed.

Footnotes available upon request or check [www.njatp.com](http://www.njatp.com) for more information.

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## THE IMPORTANCE OF THE WITHHOLDING REVIEW

BY JOHN LOGUE

**CFS TAX SOFTWARE, INC.**, is proud of our longstanding connection with the New Jersey Chapter of NATP. For several years now, it has been our pleasure to assist the Chapter in advancing its community betterment objectives by donating a copy of our popular TaxTools software to the Chapter's Annual Charity Auction.

TaxTools may be the program we are best known for, but the first program ever produced by CFS was the W4 Calculator. Nearly thirty years ago, CFS founder Ted Sullivan—a tax professional himself—saw the need for a computer program to assist tax professionals in accurately calculating clients' withholding allowances, whether the client wished to have as little tax as possible withheld, wanted to receive a specific refund amount, or needed to make a mid-year adjustment due to a change in circumstances.

This year, reviewing your clients' withholding is more important than ever. In a recent news release, the IRS encouraged taxpayers to ensure the correct amount of tax is being withheld from their paychecks, as there is a good chance next year's refunds will be delayed by new identity theft and fraud protections.

The withholding review takes on even more importance this year given a new tax law change that requires the IRS to hold refunds a few weeks for some early filers in 2017 claiming the Earned Income Tax Credit and the Additional Child Tax Credit. In addition, the IRS and state tax administrators continue to strengthen identity theft and refund fraud protections, which means some tax returns could again face additional review time next year to protect against fraud.

"With these changes, it makes good sense on many different levels to check on your withholding and plan ahead for next tax season," said IRS Commissioner John Koskinen. "It's a personal choice if you want to have extra money withheld to get a

bigger tax refund, but you have options available if you prefer to have a smaller refund next year and more take-home money now." (IR-2016-117.)

The withholding review is a valuable service you can market to your clients to increase your revenue, and the W4 Calculator makes the task a breeze. Simply fill in the client's (or client couple's) wages and other income. There are three different options for allocating withholdings between two wage earners. The program will generate a detailed report with recommendations on which boxes to check and how many allowances to claim on both Forms W-4 and NJ-W4, and will generate both forms based on those recommendations. If your client(s) would prefer to receive a refund—from the IRS, the state, or both—simply plug the desired refund amount(s) into the worksheet and the program will generate a report and forms for that scenario.

In addition to Forms W-4 and NJ-W4, the program will also generate Forms W-4P, W-4V, 1040-ES, and withholding allowance forms for several other states. The program also includes CFS's popular Paycheck Withholding Calculator, Invoice Generator, and Label Maker, and imports clients and preparers from other CFS programs and major tax preparation programs.

NATP members receive 30% off the first-time purchase of W4 Calculator and other CFS software, and right now you can purchase the 2016 version of W4 Calculator and get the 2017 version free. Visit our web store at [www.taxtools.com](http://www.taxtools.com) and use coupon code NATP44745, or call us at 800-343-1157.

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**Enhance your tax skills at the Northern NJ Working Together Conference January 4, 2017 at Seton Hall University for a day of CE. Register before December 16th and Save: <https://cepsenroll.shu.edu/coursedisplay.cfm?schID=156>**