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## New York State Budget Legislation How the Provisions Affect You

The New York Legislature has passed and Governor Eliot Spitzer signed legislation setting the budget for the 2007-2008 fiscal year. The budget contains several provisions aimed at providing tax relief for businesses. Some of these key business provisions are effective for tax years beginning on or after January 1, 2007.

First, the general corporation franchise tax rate has been reduced for "C" (ordinary business) corporations from 7.5% to 7.1%. Additionally, for certain manufacturers and qualified emerging technology companies, the overall tax on manufacturing income has been reduced from 7.5% to 6.5%. The tax rate on the minimum taxable income base has been reduced from 2.5% to 1.5%. Note: These rate changes do not affect S corporations since they do not pay the corporate franchise tax.

Second, corporate franchise taxpayers will compute their business allocation percentage based solely on receipts from in-state sales for purposes of allocating entire net income to New York State under the corporate franchise tax. Previously, the single receipts factor was scheduled to be fully phased in for taxable years beginning after 2007. *To take advantage of the single sales allocation factor, whether yours is a "C" or "S" corporation, please contact your HRR adviser.*

Third, related corporations will find much more stringent requirements resulting in the filing of combined returns for the group.

There also are two key provisions affecting personal income tax effective for tax years beginning on or after January 1, 2007. New York has mandated that S corporations with a valid Federal election must elect "S" in New York if the S corporation's investment income for the current tax year is more than 50% of its Federal gross income for that year.

In addition, if the Commissioner of Taxation and Finance determines that a personal service corporation or S corporation has been formed or used to avoid or evade New York personal income tax, then the Commissioner is authorized to disregard these entities. All of the activity will be allocated between the personal service corporation or S corporation and its owners to clearly reflect the source and amount of income. **h**

For more information, contact Tax Manager Brendan Logan at (631) 752-7400 Ext. 253, [BLogan@hrrllp.com](mailto:BLogan@hrrllp.com).

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## Notable and Quotable

Senior Tax Partner Alan E. Weiner was asked to participate in a national teleconference about the telephone excise tax refund. Mr. Weiner was among 40 participants who were free to give suggestions and ask specific questions. Since the completion of the call, the IRS has issued several pieces of guidance about the telephone excise tax refund.

Audit Partner George Victor has been invited to serve on The CPA Journal's prestigious Editorial Board, which develops, writes, and reviews others' submissions for publication in the Journal. It is a 3-year term.

Christopher Doulos, manager in the firm's Healthcare Consulting Group, has been invited to

*(continued on page 2)*

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## Notable & Quotable *(continued from page 1)*

participate in the Leadership Development Institute, specifically for people in the home health care community who exhibit exceptional leadership qualities, which is sponsored by the New York State Association of Health Care Providers.

Catching up on some other people at the firm. 2007 brought new board positions for the following:

- Health Care Partner Gary Carpenter has been named an Associate Trustee of Siena College. In addition, he is on the board of the Allion Company, a national pharmacy company specializing in HIV care.
- Audit Partner Lily Hui is on the board of advisers for the U.S. Pan Asian American Chamber of Commerce, Northeast Region.
- Litigation and Valuation Consulting Partner Phil Kanyuk chairs the Nassau Chapter New York State Society of CPAs ("NYSSCPA") Litigation Support committee.
- Not-for-Profit Partner Beatrix McKane is on the Advisory Council of the Long Island Center for Nonprofit Leadership.
- Audit Partner Howard Weiner is the chair of the Assurance Services Committee of DFK International, the worldwide association of CPA firms with which Holtz Rubenstein Reminick is actively involved.
- Senior Tax Manager Joel Ackerman chairs the Suffolk Chapter NYSSCPA Tax Committee.
- Harold Deiters, senior manager in the firm's Litigation and Valuation Consulting Group, is the president of the Accountants/Attorneys Networking Group, and chairs the Cooperation with Attorneys Committee of the NYSSCPA.

## 2007 Depreciation Limits and

The Internal Revenue Service has issued dollar limits and new lease income inclusion tables for business automobile, light truck, and van depreciation. These amounts are based on prior year numbers that are adjusted annually for inflation. But before discussing these limitation and inclusion amounts, let's recap the depreciation rules for business use vehicles.

Generally, the tax law states that any passenger automobile costing more than a certain amount is subject to "dollar caps," more commonly called the luxury auto limitation. Put simply, the annual depreciation deduction for these vehicles will be limited.

### What is "luxury"?

Surprisingly, the 2007 definition for luxury is set at approximately \$15,000 – a far cry from what the auto industry would consider luxury. However, the exception to this rule is for vehicles weighing more than 6,000 pounds.

The IRS has two separate sets of depreciation dollar limits for the 2007 year that are applicable for non-electric vehicles. One is for light trucks and vans (passenger vehicles that are built on a truck chassis including sport-utility vehicles [SUVs] and minivans) and the other is for passenger vehicles that are not light trucks and vans.

The following are annual depreciation limits:



	For 2007	For the second tax year	For the third tax year	For each succeeding year
<b>Automobiles</b>	\$3,060	\$4,900	\$2,850	\$1,775
<b>Light trucks and vans</b> (weighing less than 6,000 lbs.)	\$3,260	\$5,200	\$3,050	\$1,875

- Tax Manager Tony Rappa is the vice chairman of the Trust and Estate Administration committee of the Manhattan chapter of the NYSSCPA, a two-year term.
- Marketing Communications Director Flo Federman is President-Elect of Public Relations Professionals of Long Island and chairs the Marketing Committee of DFK/USA.

# Auto Lease Inclusion Amounts

## Expensing

As mentioned earlier, light trucks and vans with a gross vehicle weight of more than 6,000 pounds are exempt from the luxury auto limitations. If the vehicle is used 100% for business purposes, that vehicle may be accounted for under an expensing election as opposed to being capitalized. Generally, for property placed in service during 2007, the maximum "expensing deduction" is \$112,000; however, heavy SUVs (over 6,000 but not over 14,000 lbs) are subject to a \$25,000 limit on the amount that may be expensed.

Be forewarned about this expensing election when it comes to SUVs. New York State has decoupled from Federal law in this area and requires any amount of depreciation taken under the expensing election to be added back when preparing the New York State tax returns. The problem is that once the amount has been added back for New York State purposes, it is lost forever and the taxpayer will never get the benefit of that deduction. The practical effect of claiming the maximum expensing election is that it will cost the taxpayer additional New York State income taxes (after a Federal income tax benefit from deducting the taxes) of approximately \$1,300.

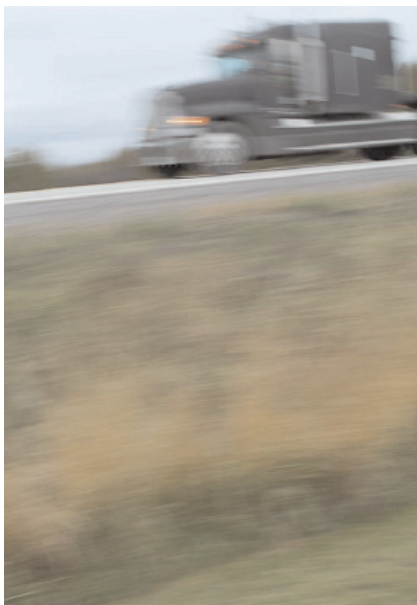
Note: For corporations, partnerships and individuals, New York City also has decoupled from Federal law. However, upon sale of the SUV, the gain or loss will be adjusted to reflect the limited deductions allowed for city purposes.

## Leasing

Taxpayers who lease automobiles for business purposes may deduct a portion of the lease payments based on the business use percentage of the automobile. The taxpayer may deduct the entire cost of the lease if the vehicle is used 100% for business purposes. So taxpayers who lease vehicles do not escape the luxury automobile limitations and they must include a certain amount in income each year from the auto lease inclusion tables.

These amounts are based on the fair market value of the leased vehicle and are adjusted for inflation annually. The auto lease inclusion tables do not apply if the fair market value of the automobile is less than \$15,500 (\$16,400 for light trucks and SUVs). **h**

*If you need assistance in determining how to depreciate your vehicle or would like to discuss planning opportunities, contact Senior Tax Manager Sidney W. Leibowitz at (631) 752-7400 Ext. 265, [SLeibowitz@hrrllp.com](mailto:SLeibowitz@hrrllp.com).*



## CyberNotes

Need to Get a Passport...  
Or Change the One You Have?

First, visit <http://travel.state.gov/passport> to find the nearest location to submit an application, information about the new E-Passports, how long it will take, application forms, photo guidelines and more.

## Boning up on Microsoft Products

Want to get proficient in – or increase your knowledge of – Microsoft Outlook, Word, Excel, or Access? There are online training courses specific to Microsoft Office 2003 and 2007 programs available at <http://office.microsoft.com/en-us/training/default.aspx>

Courses last from 15 to 50 minutes. You can take the entire course all at once or over a period of time. You also can practice, with instructions available to you at the same time.

## DFK Firm Spotlight:

Bader Martin P.S.

DFK International is the worldwide association of independent accounting and business advisory firms in which Holtz Rubenstein Reminick is actively involved. Through our affiliation, we are able to provide enhanced services to you throughout the United States and the world.

This issue we spotlight a member firm in Seattle. We invite you to visit them at [www.badermartin.com](http://www.badermartin.com).



## IRS Audit Rates on the Rise

The individual filing deadline has come and gone for this year. You have filed your return and now may wonder your likelihood of being audited. Each year the Internal Revenue Service releases what is called the Data Book, providing statistical data on its audit activities during its fiscal year. (For 2006, this would be October 1, 2005 through September 30, 2006.) If you are the worrying type, the 2006 Data Book will provide you with both good and bad news.

First the bad news: audits by the IRS are on the rise. The good news is that for all 132.3 million individual returns filed for calendar year 2005, only 1,283,950 (0.97%) were audited. However, the more complex your return is, the higher the likelihood your return may be audited.

A closer analysis of the number of individual returns audited would find that probabilities vary among the different types of returns filed.

If you are an individual who filed a Schedule C showing gross receipts of \$100,000 or more, your likelihood of being audited increased from .97% to 3.9%. This number is up from 1.86% in 2004. In comparison, for individuals who do not file a Schedule C, with gross receipts between \$25,000 and \$50,000 in 2006, the percentage of returns audited was only 0.43%.

The odds are less favorable for those with income of more than \$100,000 (but less than \$1,000,000), where the audit rate increased to approximately 1.67%.

### **What should you do if selected for an audit?**

The first thing: don't panic. Forward any correspondence to your HRR tax adviser as soon as it is received. If you feel comfortable handling a simple information request on your own, do so. But if your tax situation is more complicated, use a tax professional. Any correspondence sent and received with regard to the audit should be sent to your tax adviser.

There are three primary types of audits. The first is a correspondence audit where the IRS is simply looking for clarification on an item that was reported on your tax return. The second type of audit is the office audit where you are asked to bring information about your return to the IRS. The third and most complicated of the three audit types is the field audit. Here the agent is going to come to your office (or your adviser's) and conduct a more thorough audit.

The probability of being selected for an audit is remote. If you are selected, the process will go much more smoothly by having proper documentation of your legitimate tax deductions. **h**

*If you have received notice of an IRS audit or by the state tax authorities, or if you have any questions regarding this, contact Tax Partners Susan Teicher, (212) 697-6900, [STeicher@hrrllp.com](mailto:STeicher@hrrllp.com) or Arnold Haskell, (631) 752-7400 ext. 390, [AHaskell@hrrllp.com](mailto:AHaskell@hrrllp.com).*

## Foreign Bank Account Filing Due June 30

The title to this reminder may say “bank” but the requirement to file applies to any financial account (including a brokerage account) over which you have signature authority or control.

Form 90.22-1 for 2006 accounts is due without fail by June 30<sup>th</sup>. No extension of time to file is allowed and the penalties for failure to file begin at \$10,000 and go up from there.

In addition, you were required to alert the Internal Revenue Service of the existence of such an account by checking ‘yes’ to the applicable questions on Schedule B (Dividends and Interest) on your 2006 Federal tax return.

The penalty for answering those questions incorrectly also can be severe. If you believe that a Form 90.22-1 may be required for you, please advise your Holtz Rubenstein Reminick Adviser.

If you are unsure, or if you have questions about this filing requirement, contact Senior Tax Manager Richard W. Margaroli at (631) 752-7400 Ext. 263 or [RMargaroli@hrrllp.com](mailto:RMargaroli@hrrllp.com).

## Small Exempt Organizations: Details about New Form 990-N (e-Postcard)



Small tax-exempt organizations always have been “exempt” from filing any forms with the Internal Revenue Service. In 2008 this will no longer be the case.

Small tax-exempt organizations, whose annual gross receipts are normally \$25,000 or less, have not been required to file a Form 990 or Form 990-EZ, Return of Organization Exempt From Income Tax. However, for tax periods beginning after 2006, these organizations WILL be required to file a Form 990-N, **Electronic Notice (e-Postcard) for Tax-Exempt Organizations Not Required To File Form 990 or 990-EZ**. For 2007 calendar year entities, the filing will be due by May 15, 2008.

Since there will be no paper Form 990-N, the IRS is developing what they say will be a simple, internet-based electronic filing system for the e-Postcard, so that organizations should not have to buy computers or software to file the form. Officers of the organization will be able to go on their own computer or to the local library to file electronically, if necessary.

The IRS plans to mail educational letters to affected organizations beginning in July, and will publicize filing procedures when the system is completed and ready for use. Any correspondence should be forwarded to the organization’s treasurer, and/or accountant to ensure the information they are providing is accurate for the organization, (i.e. organization name, address, employer identification number, etc.)

The intent of this form is to ensure that the public and the IRS have current information about all of the tax-exempt organizations, including those who were not required to file.

These filing requirements will not apply to organizations that are included in a group return, private foundations that must file Form 990-PF, and supporting organizations that must file Form 990 or Form 990-EZ.

A very important item to note is that the IRS is required to revoke the tax-exempt status of any organization that fails to meet its annual filing requirement (including the new Form 990-N) for three consecutive years. Therefore, every organization, whether or not it has had any activity in the past several years, should make sure that they file Form 990-N starting with the 2007 tax year. **h**

*If you have any questions regarding Form 990-N please contact Senior Tax Manager, Joel Ackerman at (631) 752-7400 ext. 262, [JAckerman@hrrllp.com](mailto:JAckerman@hrrllp.com).*

## Cracking Down on Medicaid Fraud

By Al Conti, MPA



The  
Adviser  
Corner

This April Nassau County formally announced the creation of its Medicaid Fraud Unit with the help of New York State funding of \$750,000. Under the supervision of Nassau's district attorney, the unit will have a two experienced Medicaid prosecutors, two investigators, and two special auditors, who all will work closely with the State's Medicaid Inspector General. The aim of the unit is to root out fraud within Medicaid billings.

The Deficit Reduction Act of 2005 ("DRA"), is the comprehensive effort to combat Medicaid fraud and abuse that took effect January 1, 2007. Its purpose is to cut \$11 billion from Medicare and Medicaid spending over the next five years. If your health care organization has more than \$5 million in annual Medicaid billings, the federal compliance program is now a mandatory requirement – compliance plans are now a *condition of payment* under Medicaid.

### *To exhibit good faith compliance efforts under the DRA:*

1. Update your compliance plan, assign a senior executive as Compliance Officer, and form a compliance committee;
2. Update and schedule compliance training for your employees;
3. Update your compliance policies and procedures;
4. Update your Conflict of Interest forms for each member of the board, medical staff and employees and place in their personnel files; and
5. Ensure that everyone knows how to file complaints with your Compliance Hotline.

# M E D I C A I D

### *As a condition of payment under the DRA:*

- Update your employee handbook for DRA language requirements, adding language that includes the Federal False Claims Act; the New York State False Claims Act; and the Non-Retaliation and Non-Retribution for Reporting Fraud and Abuse by an employee. These should be distributed to employees as soon as possible.
- Create written policies and procedures for employees, contractors and agents that provide a detailed discussion of the Federal False Claims Act.
- Include written policies and procedures that detail the entity's method of detecting, and preventing fraud, waste, and abuse.

Although the DRA does not mandate that you train your staff on the False Claims Act and your policies regarding it, employee training is a reinforcement of the existing compliance culture.

Employees are your eyes and ears, and may spot fraud and abuse faster than management. Consider making it an element of job performance.

In addition, your DRA compliance efforts should be attached as an addendum to all established contracts with your vendors and contractors, similar to the recent inclusion of provisions on privacy standards.

In April, the Brooklyn district attorney recommended an increase in the number of the random audits and probes of hospitals and other healthcare providers. Government, at both the federal and state level, is serious about tackling Medicaid fraud and abuse. In addition to Nassau, Suffolk and New York City have joined the anti-fraud effort.

Almost every day there are investigations of fraud and abuse, in all sectors of industry. The dollars recovered are astronomical and the bad press devastating to an organization that may have made an innocent, ignorant mistake. **h**



*Holtz Rubenstein Reminick's healthcare consulting group assists hospitals, nursing homes and home health agencies with compliance reviews. For more information contact Al Conti, Senior Manager of the Healthcare Group at Holtz Rubenstein Reminick, at (631) 752-7400 Ext. 356, [AConti@hrrllp.com](mailto:AConti@hrrllp.com).*



## QUICK TIP... Picking Pearls

Whether as a gift for yourself or someone else, choosing pearls is something of an art. A few considerations:

### Budget

**High:** Cultured pearls are the most expensive, though a good investment, which could cost several thousand dollars

**Low:** Freshwater pearls or glass pearls, which are made with a glass center dipped in a coating of crushed mother-of-pearl, cost less than half the price of cultured pearls

### Tint

**White:** Classic

**Color:** Shades like brown can complement various colors of clothing

### Other tips:

- Make sure the *nacre* (the natural outer layer produced by mollusks to make pearls) is thick and not cracked.
- Good quality pearls look lustrous in the light, not dull.
- Superior pearls should be perfectly round.
- If they are too light in weight, they may be faux.
- Put on pearls after hair and makeup is complete. Perfume and hairspray dull luster.
- Store pearls in soft packaging, rather than in a jewelry box with sharper pieces.

## Realizing the Value of Your Business Selling Your Company 101

Your closely held business should be the asset of greatest value on your Personal Financial Statement (“PFS”). Each year when your accountant or controller fills in your PFS, do you ask how the business value is determined? Have you compared its value to what it was 5-10 years ago?

Have you taken an inventory of your age, company management, where your industry is going? Better yet, do you ask what you can net from your business when you retire and how much investment income you can expect from the business proceeds?

If your answer is no, don’t feel bad; neither have the 30 – 40% of other owners in your industrial park, despite the fact that approximately 40% are facing ownership transfer in the next 10 years.

Realizing top value for your business starts with understanding what your asking price would be if the sale were today. Then, honestly evaluate the factors a buyer would consider, in order to increase the value of your business and, ultimately, your asking price.

*We can start you on the road to improving the value of your business. For more information, contact Martin P. Randisi, partner in charge of valuation services at Holtz Rubenstein Reminick, (631) 752-7400 Ext. 389, [MRandisi@hrrllp.com](mailto:MRandisi@hrrllp.com).*

Holtz Rubenstein Reminick’s Valuation Services Group provides a very specialized consulting service that can help you maximize the value of your company when you are ready to sell. In our process, we measure where you are today and evaluate with you what you can do to influence greater value for the future including such factors as:

- Nature of Business
- Operational
- Organizational
- Financial
- Product & Marketing
- Legal
- Economic and Industry
- Tax Consequences

### **Some questions to consider:**

- Do you have a successor, and will that successor be able to afford your price?
- Do you have the team in place to increase your EBITDA (Earnings Before Interest, Taxes, Depreciation and Amortization) and growth rates?

Take your inventory now! **h**



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# HELPING YOU INSTALL INVESTOR CONFIDENCE

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