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## adviser



MAY, 2001

### Materialmen "Pay When Paid" Method – Deadline June 1!

By June 1, 2001, "materialmen" have the opportunity to elect to remit the sales tax due from contractors when they actually receive payment on the sales of qualifying building materials and on certain services performed on such materials, instead of when the sale is actually made.

The annual election is made on Form ST-112, which must be received by the New York State Department of Taxation and Finance, no later than June 1, 2001 and is

effective for the 12 month period beginning June 1, 2001 and ending May 31, 2002. Please note that this election must be received, not merely postmarked, by June 1.

A "materialman" is defined by New York State as any seller of building materials and related services who (during any two of the four most recent consecutive quarters):

- Falls within the meaning of such term under the New York State Lien Law;
- Is primarily engaged (more than 50% of sales) in selling building materials to contractors for improvement to real property; and
- Is authorized by the New York State Lien Law to file a mechanic's lien upon such real property or improvements.

The remittance of the sales tax only can be deferred for one year from the date of sale, even if still unpaid by the contractor.

### Information Reporting Requirements for Stock Options

In a recent private letter ruling, the Internal Revenue Service reinforced that every corporation is required to issue a written statement to an employee upon the first transfer of stock acquired by the employee upon exercise of an incentive stock option.

This written statement should contain the names, addresses and identification numbers of both the employee and the corporation; the date the option was granted; the type of option; the number of shares transferred; the date the shares were transferred from the corporation to the employee upon exercise; the fair market value of the stock at the time the option was exercised; and the total cost of all shares transferred. This statement must be furnished by January 31 of the following calendar year.

### Notable and Quotable

Serving on the board of a non-profit organization can be both rewarding and challenging, especially if one is not familiar with the responsibilities, potential problems and possible liabilities of board membership. The Suffolk Academy of Law presented its seminar, "Representing And/Or Serving on a Non-Profit Board." HR Not-For-Profit Partner **Beatrix McKane** discussed the practical aspects of obtaining and maintaining tax exempt status as a public charity; identifying pitfalls to be avoided when completing tax forms; understanding disclosure requirements; and highlighting current IRS initiatives in the not-for-profit arena.

In between completing tax returns last month, HR Senior Tax Partner **Alan Weiner** became the adviser to Long Island's procrastinators, offering last minute tax tips on News 12 Long Island, the *Daily News* and *Newsday*.

Which of today's high school students should consider a career in accounting? To help them in their career choices, HR Senior Auditor **Harold Deiters** visited Huntington High School recently, to talk to students about the profession. Harold is a regular lecturer at high school career days, discussing the career path, challenges, use of technology, and range of compensation.

If interested in a firm professional visiting your local school's career day, please contact Harold at 631-752-7400, x-226 or [HDeiters@hrcpa.com](mailto:HDeiters@hrcpa.com).

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## IRS Changes Position For Contractors - Cash vs. Accrual Issue

Several recent court decisions have upheld a contractor's use of the cash method of accounting and have rejected the IRS argument that the contractors were in the business of providing merchandise, and therefore, were required to use inventory accounts and the accrual method of accounting. This apparent pattern has led to a notice issued by the Chief Counsel's office of the IRS indicating that until further guidance is issued, it will suspend assertion of this position.

The cases highlighted in the notice dealt with specific types of contractors. The Office of the Chief Counsel has indicated that its change in litigation position applies to businesses similar to those considered by the courts. Accordingly, the notice specifically covers construction contractors involved in paving, painting, roofing, drywall and landscaping.

In one case, the Tax Court held that an installer of floor materials was a service-provider that was eligible to use the cash method of accounting. It rejected the IRS's position that the purchase and warehousing of these materials prior to installation constituted inventory, requiring the use of the accrual method of accounting.

This hands-off policy does not apply to taxpayers who are resellers, manufacturers, or those who would otherwise be required to use an accrual method of accounting. However, this notice does direct taxpayers to be aware that those with average annual gross income of \$1 million or less are permitted to use the cash method.

## Your Business: How To Get Paid On Time

Running a business involves three crucial steps you must take with your customers: reaching them, getting them to buy your product or service, and getting paid by them. The last step – getting paid – is often the one that makes or breaks a business. Without proper payment and credit procedures, even the best of businesses can find themselves falling on hard times.



### Create an overall payment policy

The first step is to create and enforce clear credit and payment terms that cover all types of customers and all the products and services your business offers.

- Will you require a deposit or retainer? How large a deposit should it be, e.g., 50% of the total payment?
- What is your standard payment schedule? Thirty days from completion? Will it be full payment only after completion or delivery, or partial payments throughout the project?
- How does your business define completion? Is it based on a set of criteria, or solely on customer satisfaction?

- Will your business extend credit? To what extent?
- Will credit be extended to first-time customers?
- Will you give a discount for prepaying?
- Are there any circumstances in which a past due account will be sent to a collection agency?
- What will be the policy regarding disputed bills or items on a bill? Will you give a refund for returned items or a credit only?

### Evaluate the creditworthiness of all new customers

First, you need to have a set procedure or policy to determine if and when you will extend credit to a new customer. The screening and conditions should be proportional to the amount of risk you are taking. If the customer's initial purchase or order is a small amount and the risk is minimal, for example, under \$300 worth of merchandise, then you can probably take the customer's word for their ability to pay. However, if a new customer places a very large order or makes a special request or custom order, then you will want to do a thorough credit and/or

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## Non-Profit Symposium June 28

If you work with a not-for-profit organization, consider attending a symposium to be held at Suffolk Community College in Brentwood on June 28 entitled, "Managing Charitable Dollars: Financial Accounting Issues for Non Profit Boards."

The Charities Bureau of the New York State Attorney General's Office has asked HR Partner Beatrix McKane to be one of the speakers, discussing Form 990. Beatrix plans to warn people of the problems and pitfalls of Form 990, review the latest changes, and point out the opportunities of bringing your message to the public.

If you wish to register for the symposium, please call Carolyn Lapidus at 631-752-7400, extension 291.

### CyberNotes – Zagat.com

Connoisseurs of delectable food have long turned to the Zagat Survey guidebooks for restaurant ratings and reviews. Web surfers can now access the information contained in the guidebooks at **Zagat.com**.

At **Zagat.com** you will find a database of more than 20,000 restaurants in 45 different cities. You can sort the restaurants based on neighborhood or type of cuisine, or just browse through an alphabetical list. You also can see lists of top restaurants in various categories, such as top food, top service, best buy, best view, et cetera. Each listing contains all relevant information, including the address, phone number and hours of the particular restaurant, as well as a detailed review – written by an actual patron of the establishment. In addition, each restaurant is rated on a scale of 1-30 for its food, décor, service and cost.

So whether you crave a bistro in Paris, a café in Seattle, a Kosher Sushi bar in NYC, or a good place in your neighborhood, try **Zagat.com**.

### Saving for College Tuition: A Look at State Tuition Programs

By: Brendan Logan, CPA

As college tuition costs keep rising, more and more parents are left with the question... how will I pay my child's tuition? There is no definitive answer – the best course of action is to plan ahead. However, one of the options available to you is the qualified state tuition program, or 529 plans, derived from the Internal Revenue Code section which governs them – section 529.

Currently, 34 states have these programs, and there are more states that either have legislation pending to approve their plan or are expecting to launch their program this year. Although you can choose any state's program, investing in a program other than the one in your home state will cause you to forfeit the tax advantages to which you are entitled in your home state.

Anyone, regardless of income, can open an account in a qualified state tuition program, for any beneficiary they choose. There is no limit to the amount of accounts, though each state has limitations as to how much money can be contributed to any one beneficiary. For example, in New York, account owners are allowed to give up to \$100,000 to any beneficiary, however, the balance of all accounts for one beneficiary can not exceed \$235,000. Account owners have the ability to change the designated beneficiary of an account to another family member at any time.

Many states offer various investment options, including stocks, bonds and money market funds. However, once you choose an option for a contribution you cannot change it unless you follow a complicated rollover procedure. Although you cannot move money from one account to another once you decide on a particular fund, you can choose to put new contributions into a different account. States with numerous investment options offer some flexibility in this area.

The Federal tax consequences are the same no matter what state you choose to

invest in. Contributions to the plan are not tax deductible, and earnings are taxed deferred until the money is withdrawn from the plan to pay for qualified higher education expenses (QHEE). When the money is withdrawn to pay for QHEE, the earnings are taxed to the designated beneficiary of the plan rather than the account owner. This can be a substantial saving because college students generally are in lower income tax brackets than account owners.

Qualified higher education expenses consist of: tuition; fees; books; supplies; equipment; and a limited amount of room and board for students attending college at least part-time at any eligible educational institution. An eligible educational institution generally includes any accredited post-secondary educational institution in the United States, undergraduate and graduate.

If a withdrawal from a plan is not used to pay QHEE, generally the account owner will be subject to the tax on the earnings portion of the withdrawal, at his or her tax rate, rather than the beneficiary's lower income tax bracket. Also, a penalty may be imposed on a non-qualified withdrawal, unless the withdrawal is due to the beneficiary's death or disability or if the beneficiary receives a scholarship (to the extent of the scholarship). The amount of the penalty is equal to at least 10% of the earnings of the withdrawal. Note that the penalty is only imposed on the earnings portion of the non-qualified withdrawal and not the entire withdrawal.

For Federal gift tax purposes, contributions are considered a completed gift of a present interest, thus enabling them to qualify for the \$10,000 annual gift and generation-skipping transfer tax exclusion. A donor can elect to spread a gift over 5 years, enabling them to contribute \$50,000 to any beneficiary in any given year without incurring gift taxes. However, the donor will not be able to make a tax-free gift to that beneficiary for five years.


The state tax consequences depend on your home state and the state in which you choose to invest. For example, account owners of a New York qualified plan can generally deduct up to \$5,000 (\$10,000 for married couples filing a joint

### UPDATE - Industrial and Manufacturing Business Credit ("IMB")

Starting with taxable years ending on or after January 1, 2000, industrial and manufacturing businesses (IMB) are allowed to claim a New York State income tax credit for energy taxes paid on gas, electricity, steam, water and refrigeration. Taxpayers who are eligible for the credit include C Corporations that are IMBs, shareholders of S Corporations that are IMBs, and partners in partnerships that are IMBs.


An eligible IMB is a business which, during the taxable year, is:

- Principally engaged in: processing, manufacturing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing;
- An industrial waste treatment facility or an air pollution control facility;
- Principally engaged in research and development; or
- Engaged in any combination of the above.

Eligible businesses should have received a letter from LIPA in early March regarding the IMB Credit. The letter provides a phone number, 1-800-490-0025, to receive information needed to claim the credit. However, by sending LIPA client account numbers, Holtz Rubenstein has been able to obtain IMB Credit statements for our clients directly. 

return) from their adjusted gross income for contributions to a New York plan. Withdrawals from a New York plan to pay QHEE are not included in the taxable income of either the account beneficiary or account owner. The earnings from a New York plan are tax-free; however, a New York resident who participates in another state's program forfeits these tax benefits.

In this way, qualified state tuition programs are something to consider when thinking about saving for college tuition.

Questions? Contact HR tax supervisor Brendan Logan, at 631-752-7400 x-253 or [BLogan@hrcpa.com](mailto:BLogan@hrcpa.com). 

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### Your Business: How To Get Paid On Time

reference check, including banking and other seller references, and require a deposit.

Or maybe you may want to require a deposit only if the customer does not fully meet your credit test, but you still want the business. Many businesses have “starter accounts” that require new customers to put 50% down prior to delivery, and payment in full within 30 days of completion or delivery. Once the new customer establishes a credit record, you can end the starter/new account status and extend your regular credit terms.

### Create a tracking system

A tracking system is merely a way to make sure that unpaid receivables don't fall through the cracks. Most accounting systems – whether custom-made or store-bought software – have this function. A tracking system also should give you a “heads up” that an invoice is more than three months past due. This is especially helpful when you are busy focusing on other aspects of your business. You may not realize that a normally prompt-paying customer has suddenly fallen in arrears.

Another side to the tracking system involves following up with the customer by either sending a letter, an update, or phone call. If you call, make sure you log the date of your call so you have a record. Most business owners hate this aspect of their business, but it is essential, and most customers, if they have simply overlooked it, don't mind a gentle reminder. If the late payment is due to something more serious, and your reminders and follow-ups go unheeded, you now have a record and can start planning your next steps, such as referral to a collection agency.

### DFK Website of the Month


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

This month we spotlight one of our German members, **Peters, Schönberger & Partner**. Its website is accessible in both German and English. We invite you to log onto [www.pspmuc.de](http://www.pspmuc.de). 

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### Notable & Quotable

'Tis the season for charity walk-a-thons, now that the weather is warmer. Several staff members of the firm have given their time (and their money) to further the causes of many Long Island fundraising organizations.

- Partner **Gary Carpenter** headed a team who walked in the Long Island Multiple Sclerosis Society's 2001 MS WALK. Gary, along with Manager **Leo D'Sa** and Supervisor **Andy Shulman**, helped raise about \$5,000 for the MS Society.
- Manager **Pat Fahey** walked, and was on the planning committee, for the Long Island chapter of the March of Dimes' Walk America, where he raised more than \$400.
- **Patrick Yu**, HR senior auditor, raised almost \$550 when he walked in the Marvin Tiger Foundation 5K Walk at the Hempstead Lake State Park, along with **Andy Shulman** and HR assistant **Jenifer Mazziotti**.
- **Carol Hanington**, who oversees the firm's tax collation and file room, walked 3.5 miles for the American Liver Foundation's Liver Walk, raising about \$500.
- And, Senior Auditor **Paul Becht** is on the finance committee of the 4th Annual CIGNA HealthCare Run for The 1-in-9 Long Island Breast Cancer Action Coalition, whose run is in August. 

### Build insurance into your system

Remember that you are more likely to get paid while the customer still needs you. If you've done all the work, the customer will be in no rush to pay you. If part of your project is left to do, or not all of your product has been delivered, the customer is more likely to pay promptly, and minimize your risk.


If you have a customer that refuses to pay because he or she is dissatisfied due to a minor complaint, insist on the client paying for the part of the project or product that is not in dispute, while trying to address the customer's concerns. This scenario is also a good reason to have a payment policy that is comprehensive and clearly expressed to the client. If you have stated your policies beforehand, there is less room for a customer to withhold payment arbitrarily. You also can avoid problems by giving incentives for prompt or early payment, such as a discount for prepayment.

These are just a few of the ways to help your business get paid more promptly, help avoid problems with customers, and avert cash flow issues for your business.

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### Information Reporting Requirements for Stock Options

The penalty on the corporation for failure to furnish this statement is \$10 for each statement not furnished, not to exceed \$25,000. These statements do not get filed directly with the IRS.

The purpose of furnishing this statement to an employee is to determine if the holding period requirements are met. Upon sale of stock held pursuant to the exercise of an ISO, any gain recognized is subject to capital gains treatment, providing certain “holding period” requirements are met. The employee must not dispose of the stock for at least two years from the date on which the option was granted, and the stock must be held for at least one year after it was transferred to the employee. 


*This publication is designed to present matters of general interest relating to accounting, taxation and business management. It is not intended to constitute accounting or tax advice. Articles were written by the staff of Holtz Rubenstein & Co., LLP and the American Institute of Certified Public Accountants. Please consult your HR & Co. adviser before taking any specific actions.*

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**The HR Adviser Wants YOUR Opinion!**

We'd like to thank you for taking the time out each month to read the HR Adviser. We hope it has provided you important, useful, and sometimes fun, information.

In order to make sure our newsletter continues to be as beneficial as possible, we would like to know what you think! 

**PLEASE TAKE FIVE MINUTES TO TELL US YOUR OPINIONS.**

**• What features do you make sure to read each month?**

- Notable and Quotable
- CyberNotes
- The Adviser Corner
- Articles on tax issues
- Articles on business issues
- Advice on running your business
- Other \_\_\_\_\_

\_\_\_\_\_

**• What's missing that you'd like to see? \_\_\_\_\_**

\_\_\_\_\_

**• Any other comments? \_\_\_\_\_**

\_\_\_\_\_

**• Your Name (optional): \_\_\_\_\_**

**THANKS FOR YOUR TIME!**

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