

Dan Segal Retires

Our friend, partner, adviser, and good humor man, Dan Segal, has opted to have fun and retire from the world of accounting.

Dan joined Holtz Rubenstein & Co. shortly after its founding in 1975 and was welcomed into the partnership ranks in 1980. Over the years he developed a niche practice in real estate and today is regarded as one of the foremost authorities on construction and home building accounting and financing. In addition, he has served as the Firm's exchequer (Chief Financial Officer) since becoming a partner.


Over the past years, Dan has been instrumental in the firm's growth and has tutored and trained other Holtz Rubenstein personnel in the intricacies of construction accounting and financing to a point where he has been able to transition his client responsibilities to several of his partners.

Amongst Dan's accomplishments are a "Life Directorship" of the Long Island



Builders' Institute and Treasurer and a member of the Board of Directors of the YMCA of Long Island. He also is a member of the American Institute of CPAs and the New York State Society of CPAs, and over the years has volunteered his time with the Epilepsy Foundation, American Cancer Society, and the United Way. He also has been previously voted "Associate Member of the Year of the Long Island Builders Institute."

Dan intends to remain involved in charitable activities and to continue his active participation in real estate investment partnerships, which he helped to organize. Dan will maintain his firm e-mail address (DSegal@hrcpa.com) and messages can be left for him on his office voice mail at extension 340.

Dan's partners, and the staff with whom he worked throughout the years, wish him and his wife, JoAnn, health, happiness, and prosperity in the years ahead. 

Notable and Quotable

Partner **John McAteer** has been elected to the Boards of Long Island Financial Corp. and its wholly owned subsidiary Long Island Commercial Bank, and he has been designated as its "Financial Expert."

After a very successful year, Partner **Howard Weiner's** term as president of DFK/USA has come to a close. DFK/USA is the American arm of DFK International, the worldwide association of independent accounting firms consisting of 157 members in 63 countries.

"Our group had a great year," says Howard. "We implemented a new, member-inspired, strategic plan that resulted in greater attendance at conferences and meetings. It also re-energized our committees, providing a basis for more frequent interchanges of knowledge and best practices." Howard's involvement in DFK does not end with his term as president. He serves on the Executive Board for another term as Immediate Past President and serves on DFK International's Task Force on International Accounting Quality.

Howard's presidency came to an end during an annual DFK/USA meeting in Scottsdale, Arizona, attended by fellow Holtz Rubenstein Partners **Barry Garfield** and **Alan E. Weiner**.

Senior Audit Manager **Tom Caner** was an invited guest at a DFK International seminar held in the United Kingdom entitled "International Financial Reporting and Accounting Standards."

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New York State Tax Tidbits

Tidbit #1 – Record Retention Rules


Many times a year we are asked about record retention. While there are some general rules (3 years, 6 years, 7 years, forever) for many items, there is no rule that fits everyone.

In a recent case, the New York State Appellate Division upheld the decision of the tax authorities that because the taxpayer could not produce a cancelled check for a 1995 income tax payment, it was deemed not to have been paid (the burden of proof was on the taxpayer).

Our office handled a similar matter a few years ago on a tax payment allegedly made by our client in the 80s. We were successful (the client didn't have to pay – twice) only because a member of our tax department continued to maintain telephone contact with a Department of Taxation official who, it is reported, “found the taxpayer’s file in the New York State Department of Taxation basement” and acknowledged that our client had indeed paid New York State what was owed.



Tidbit #2 – What goes up must come down!

Last year New York State increased one of its personal tax rates to 7.5% (for joint filers with taxable income between \$150,000 - \$500,000 and single filers with taxable income between \$100,000 - \$500,000). For 2004, that rate bracket drops to 7.375%. 

CyberNotes


Recalls.gov

Do you know whether the tires on your car, or the crib in your child’s nursery, or the candles in your home are unsafe? **Recalls.gov** offers information from six federal agencies about recalls involving Consumer Products, Motor Vehicles, Boats, Food, Medicine, Cosmetics and Environmental Products.

Recalls.gov is the new one-stop site that is the work of the Consumer Product Safety Commission, the Food and Drug Administration, the National Highway Traffic Safety Administration, the Environmental Protection Agency, the Coast Guard, and the Agriculture Department. The site attempts to simplify the task of obtaining information on unsafe, hazardous or defective products.

Frommers.com

Planning a getaway to start the new year? **Frommers.com** is a great starting point for planning a vacation. The site quickly shows you some useful information on vacation destinations, provides an overview of the city or landmark, health and safety tips, vacation planning advice, accommodations, dining, attractions, and nightlife.

Not every destination is listed; only areas that are well known or that have some important tourist attraction are featured. **Frommers.com** also offers links to other sites where additional information and accommodations can be made. 

New Benefit and Contribution Ceilings in 2004

For 2004, taxpayers may contribute up to a combined total of \$3,000 (same limit as in 2003) to all IRAs, whether traditional or Roth, or both.


Also, the 2004 elective deferral limit for 401(k) plans, 403(b) annuities (for employees of public schools and 501(c)(3) organizations) section 457 plans (for employees of state or local governments or tax-exempt organizations) and SARSEPs (salary reduction simplified employee pensions) is \$13,000 (up from \$12,000 for 2003).

For SIMPLE (Savings Incentive Match Plan for Employees) plans, the 2004 salary reduction limit is \$9,000 (up from \$8,000 for 2003).

Employer plan limits have increased. For defined contribution plans, the annual addition may be up to 100% of an employee’s compensation, but not more than \$41,000 for 2004 (up from \$40,000 in 2003). For defined benefit plans, the annual benefit limit increases from \$160,000 to \$165,000 in 2004.

For both defined contribution and defined benefit plans, the limit on compensation that may be taken into account will increase from \$200,000 to \$205,000 for 2004.

Higher contribution limits for taxpayers 50 and over.

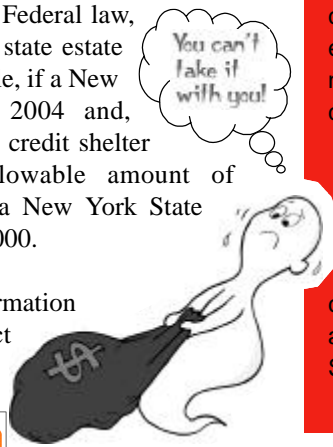
Taxpayers who are at least 50 years old by the end of 2004 may contribute even more to certain retirement plans. For IRAs, the extra amount for 2004 is \$500, resulting in a total taxpayer contribution limit of \$3,500. For SIMPLE plans, the extra amount for 2004 is \$1,500, resulting in a contribution of \$10,500. For other elective deferral plans – including 401(k)s, 403(b)s, section 457 plans and SARSEPs – the extra allowable contribution for 2004 is \$3,000, resulting in a total contribution limit for 2004 of \$16,000. 

Increase in Federal Estate Tax Exemption

Effective January 1, 2004 the Federal estate tax property equivalent exemption is increased from \$1,000,000 to \$1,500,000. The gift tax property equivalent exemption remains at \$1,000,000. (Note that New York State does not have a gift tax.) In 2004 the Federal estate and gift tax rates decreased from 49% to 48%.

Keep in mind that some states are not following the Federal law. New York froze its estate tax exemption at \$1,000,000. If you live in New York and certain other states that are not following the Federal law, your estate may be subject to a state estate tax upon your death. For example, if a New York State resident dies in 2004 and, pursuant to his/her will, funds a credit shelter trust with the maximum allowable amount of \$1,500,000, it would result in a New York State death tax of approximately \$60,000.

If you would like more information about estate and gift taxes, contact Senior Tax Manager Sid Leibowitz at 631-752-7400 x-265 or SLeibowitz@hrcpa.com.



Haven't Been Tracking Your IRA Basis? It's Not Too Late

If you have made non-deductible IRA contributions, it is important to track the basis in these contributions, since you should not pay income tax when distributions are taken. The basis in these non-deductible contributions is tracked on IRS Form 8606, *Nondeductible IRA*, which came into being after the Tax Reform Act of 1986. The filing of the form with tax returns has been required since the tax year 1986.

Taxpayers were asked to declare all eligible nondeductible contributions, to traditional IRAs that were made in the past, as entries on the first year of the form. Thereafter, any undeclared nondeductible contributions would be treated as deductible contributions at the time of distribution, and therefore taxable.

If you forgot to inform us that you made the contributions, it is not too late to file prior year forms. Since Form 8606 is a stand-alone form, it is not necessary to amend your individual tax return. Each form can be filed separately for each year a nondeductible contribution was made. If you believe that you have failed to declare all of your nondeductible contributions, contact Senior Tax Manager Sid Leibowitz at 631-752-7400 x-265 or SLeibowitz@hrcpa.com.



IRS Update

IRS Allowed Full Deduction of S Corp Aircraft Expenses

In a Chief Counsel Advisory, the IRS has determined that expenses of personal flights on a company airplane can be deducted in full by the S corporation and that the shareholders' pass-through deduction is not limited to the amount of airplane expenses reported as compensation to the shareholders for personal use.

An S corporation that owned an interest in two airplanes deducted the costs of maintaining the planes, which, in turn, was passed through to its shareholders. The shareholders used the planes 95% for personal and 5% for business travel. The amount of each personal flight was calculated and reported by the S corporation as shareholder compensation. (The S corporation used the Standard Industry Fare Level – ("SIFL") – method to calculate the value of the personal trips.) The deductible expenses were 10 times greater than the income generated by the

personal use of the airplanes. This resulted in substantial net deductions for personal use of the S corporation's aircraft.

The IRS stated that the deduction for flight expenses was not limited to the amount of the fringe benefit included in the employee's income. The IRS based its decision on an Eighth Circuit case that ruled that the taxpayer was entitled to deduct all of the expenses associated with personal use of company aircraft; not just the amount calculated as fringe benefits.

Personal flights on company airplanes are not the most ordinary fringe benefit, but the reasoning of the ruling should apply to other situations where an S corporation or a partnership provides fringe benefits to shareholders or partners.



Reimbursements for Certain Over-the-Counter Drugs

The IRS has ruled that reimbursements by employer health plans or health flexible spending accounts for the cost of over-the-counter drugs (not covered by any other insurance) are excludable from gross income.



This ruling applies to non-prescription drugs, such as cold medicines, antacids, and allergy medicine, purchased for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body. It does not, however, apply to dietary supplements, such as vitamins, which are taken merely to benefit the general health of the employee or the employee's spouse or dependents. These expenses are not reimbursable or excluded from gross income.

ADVISER CORNER

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New Year's Resolutions for Your Organization

By Ellen Labita, CPA

Now that the holidays are over, hopefully you are hard at work fulfilling your New Year's resolutions. How about some for your organization? Here are some "best practice" suggestions to get you started:

Strategic Planning –

Is your strategic plan up-to-date? Does it really reflect the mission and goals of your organization? Is it used in your day-to-day management or is it viewed as separate from your operations because, after all, it is long-term in nature? It may be time to review your strategic plan and make sure it reflects your mission. Also, your plan should have both shorter-term (one to three year) and longer-term (five years and beyond) goals. The short-term goals should be very specific and be linked to your mission and operations. The long-term goals can be more general but remember, they will move to the short-term category soon enough, so correlation with your mission is critical.



Ellen
Labita

Budgeting –

Are you using your budget to tie your strategic plan to your day-to-day activities? The budget is the prime tool to make sure the strategic plan drives the operations. For example, if cost reduction is a goal, the budgeted numbers need to reflect it.

How much time does your organization devote to budgeting? Since the budget is only one of many management tools, it may be time to analyze how the process can be simplified. For example, zero-based budgeting (where you start from scratch) may not be necessary every year. Some budget detail that is not useful to managing the business throughout the year may be eliminated. Simplifying the budget process will make it less disruptive to the core operations and free resources for other projects.

Who participates in the budget process? If budgeting is solely or largely a finance

function, you should consider involving your operating personnel to achieve a more meaningful result.

Is your budget easily adaptable to your changing environment? A budget that can be easily updated to reflect changing conditions will serve as a more useful management tool throughout the year.

Management Reports –

Do the management reports you receive contain all *and only* the information you need to run the business? Many organizations still are producing reports just because they have historically been generated. It may be time to review all those daily, weekly, monthly and quarterly creations to determine exactly what is needed. Perhaps the frequency of some reports needs to change. Some reports may be able to be eliminated, while new reports may be required. Top management needs to communicate its needs in order to maximize the usefulness and efficiency of the management reporting process.

Performance Indicators –

Are the performance indicators in use the right ones for your organization? Do you even use performance indicators? Management often focuses only on revenues and a few balance sheet ratios, such as the current ratio, when trying to understand the raw numbers in the financial statements. But other indicators, such as revenues per customer/client, profitability by product line/program, or administrative expense growth rates may be useful tools to help management understand the whole picture. It may be time to review your key performance indicators and develop some new more comprehensive ones.

Managing Cash Flow –

What tools do you have to help you manage your cash flow needs? A cash flow projection of both short and long-term requirements should be prepared at least monthly, with daily review of receipts and disbursements. A close eye on the short-term cash needs is essential for survival, but forecasting the long-term needs will ensure adequate lead time to prepare for major expenditures, such as capital projects.


Generating Financial Information –

Many organizations are in the midst of the


New for 2004! Taking Advantage of Health Savings Accounts

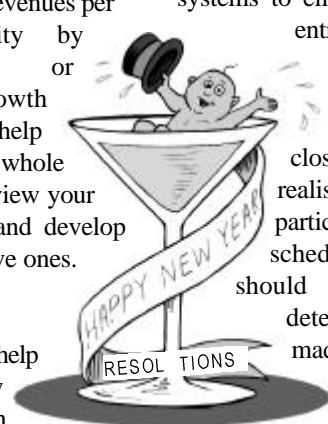
Starting on January 1, 2004, employees with high-deductible health insurance may now participate in a Health Savings Account (HSA). Contributions to HSAs are tax deductible while buildup and withdrawals for medical purposes are made tax-free.

A high deductible plan is one in which there is at least a \$1,000 annual deductible for self-only coverage and a \$2,000 deductible for family coverage. In addition, the annual out-of-pocket expenses to be paid under the plan must be limited to \$5,000 for the self-covered and \$10,000 for families.

The maximum annual aggregate contribution to an HSA for 2004 is \$2,600 for the self-covered and \$5,100 for families. Individuals who have reached age 55 by the end of the tax year are allowed to increase the annual contribution limit by \$500 for 2004. 

year-end close. And non-financial management is probably thinking, "Why does the close take so long?" Some techniques to shorten the year-end process include shifting tasks, such as account analysis, to before year-end, automating journal entries and reports, and integrating systems to eliminate the need for manual entries and reconciliations. A set closing schedule should be adopted outlining the tasks to be completed each day of the close. Make sure the schedule is realistic and then enforce it. If particular tasks repeatedly cause scheduling issues, those tasks should be closely examined to determine how they could be made more efficient. Staffing levels in the finance function also should be reviewed. Perhaps some employees who don't normally participate in the close could assume some closing responsibilities. Use of part-time employees to fill needs at peak times also should be considered.

To make sure your organization carries out its New Year's resolutions, contact Senior Audit Manager Ellen Labita at 631-752-7400 x-232 or ELabita@hr CPA.com. 



Service Award Payments to Volunteer Firefighters

The New York Department of Taxation and Finance is explaining its position regarding the New York personal income tax treatment of service award program payments to volunteer firefighters.

Volunteer firefighters often receive cash service awards based upon their years of service. If the program meets certain requirements, up to \$20,000 of the payments may be subtracted from New York taxable income for taxpayers 59 ½ years of age and older.

The Internal Revenue Code provides the first set of requirements that the program must meet:

- The recipient must be a bona fide volunteer providing firefighting, emergency medical or ambulance services;
- The recipient only can be reimbursed for reasonable expenses incurred in the performance of such services or reasonable benefits and nominal fee for such services, customarily paid by eligible employers to volunteers for such services, and
- The amount of the length of service award that can accrue with respect to any year for any volunteer cannot exceed \$3,000.

As a result of meeting these federal requirements, the award payments are not subject to wage withholding. The payments are, however, taxable income for federal purposes.

New York Tax Law allows taxpayers age 59½ years of age or older to subtract pension and annuity payments up to a total of \$20,000 from federal income. The payments must be from a pension or an annuity, must be periodic payments attributable to personal services performed prior to retirement and either, 1) arise from an employer/employee relationship or 2) from contributions to a retirement plan, which were deductible for federal income tax purposes.

The New York General Municipal law defines a service award program as a retirement income plan, and the relationship between the volunteer fire district and a volunteer firefighter as that of an employer/employee. Therefore, as long as the service award program does not designate that the service award be distributed in a lump sum, the payments may be excluded from New York taxable income (to the extent included in federal income) for those taxpayers 59½ years of age or older.

Military Tax Relief Bill

There are several major provisions of the Military Family Tax Relief Act of 2003 that President Bush has signed, providing \$1.2 billion in tax relief for members of the United States Armed Forces, National Guard, and a few other commissioned service corps, as well as astronauts who die on space missions:

- Qualified individuals will see an increase in the death benefit to survivors of U.S. military members killed in the line of duty after September 11, 2001 from \$6,000 to \$12,000. Additionally, the tax-free amount of the benefit increases to \$12,000.
- Qualified individuals can elect to suspend the two out of 5-year test period for ownership up to 10 years during the extended duty time away from home for the capital

gain exclusion on the sale of their principal residence. This exclusion is \$500,000 for taxpayers married filing joint and \$250,000 for single taxpayers.


- The new law provides a deduction from gross income up to \$1,500 for overnight travel expenses for National Guard and Reserve members retroactive to December 31, 2002.
- Payments received under the Department of Defense Homeowners Assistance program are excluded from gross income.
- Combat zone designations have been expanded to include “contingency operations.” Contingency operations are defined as military operations designated by the Department of Defense in which

State Allows Public Access to Criminal Records Database

Businesses considering job candidates (and parents looking at prospective babysitters) can now access a public database for possible criminal records available in New York State. Previously, a central database was available only to law enforcement agencies.

The database searches can be performed by sending a request form to the Office of Court Administration. Requests made electronically will be returned almost instantaneously. Requests hand-delivered or mailed to the Court Administration Office in Manhattan will be available within 24 hours of receipt of payment. There is a \$52 fee per name to search the database for felony or misdemeanor convictions and for arrest records. However, criminal charges that have been dismissed will not be accessible.

Approved businesses, such as private investigators, can perform searches over the Internet. Businesses seeking approval must submit a letter describing their business and the volume of searches expected. When the business has been determined legitimate, an account will be setup and billed for searches monthly.

For more information or to obtain a request form go to the website for the Office of Court Administration at www.nycourts.gov/apps/chrs. 

members of the armed forces may become or are involved in hostile operations. It also includes calls to service during a national emergency as declared by the President or Congress. Therefore, military personnel serving in contingency operations will be able to take advantage of the same generous filing rules available to troops in combat zones. This includes more time to file returns and pay tax liabilities.

- Membership requirements for some tax-exempt veterans’ organization are modified to include ancestors or immediate family.
- Payments received from the dependent care assistance program are excluded from gross income.

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Holiday Good Works

Continuing the firm's long-standing tradition of altruism, the staff of Holtz Rubenstein gave their time and their financial support to a wide range of local and national causes throughout the holidays.

As they do each year, Audit Managers **Paul Becht** and **Harold Deiters** collected toys from various businesses (including Holtz Rubenstein) for the Marine Corps' Annual Toys for Tots program. The toy drive is in connection with their involvement in the Young CPAs Committee of the NYSSCPA. This year they collected over 3,500 toys for disadvantaged children.

Tax Manager **Joel Ackerman** and his family participated in "Operation Shoebox" – gathering 20 pounds of donations (including cards from schoolchildren, crossword puzzles, and candy) to give to the soldiers in Iraq.


Marketing Director **Flo Federman**, Senior Auditor **Tracy Mees**, and Holtz Rubenstein Benefits Consulting's **Debbie Kruk** participated in "Operation Santa Claus," answering Dear Santa letters and sending gifts to less fortunate families.

Senior Auditor **Mike Tsetlin** helped to feed and distribute clothing to the homeless as a volunteer with a soup kitchen in New York City that services over 600 homeless people every Sunday.

Senior Audit Manager **Ellen Labita** and her daughter **Lauren** helped pack food boxes for holiday meals for needy families at their local church.

Bookkeeper **Mary Daniele** delivered gifts to a Long Island family, participating with her church in the international program Angel Tree Ministry.




The support staff of Holtz Rubenstein adopted a family – donating a huge goody basket of food, toys, and money to a less fortunate Long Island family. 

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Military Tax Relief Bill

- Appointments to military academies are treated as scholarships for purposes of tax-preferred education savings accounts retroactive to December 31, 2002. Therefore, withdrawals from the education savings accounts are penalty free.

- The new law suspends the tax-exempt status of designated terrorist organizations and directs the IRS to update and publish this list of terrorist organizations. Taxpayers will not be able to claim their contributions as deductions to these organizations.

These provisions are seen as a huge step toward easing the tax burden for our military personnel serving around the world. 

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Notable and Quotable

In a continuing effort to provide public company clients with the latest Federal developments, Partners **Howard Weiner** (participating in Washington D.C.), **Barry Garfield**, **Andy Vuono**, and Senior Audit Manager **Pat Fahey** (participating in video simulcast in New York City) were updated on the key issues and concerns that impact the industry at the AICPA (American Institute of CPAs) National Conference on Current SEC Developments.

Continuing a long-standing commitment of service to the profession, the partners and staff of Holtz Rubenstein have accepted the following recent appointments:

- Audit Partner **Barry Garfield** is the Vice-Chair of the Accounting & Auditing Committee of DFK/USA, the American arm of DFK International, a worldwide association of independent accounting firms.


- Not-for-Profit Partner **Beatrix McKane** is the Chair of the Nominating Committee of the New York State Society of CPAs ("NYSSCPA"), Suffolk chapter.

- Holtz Rubenstein Technology Services Director **Tony Romano** has been re-elected to be DFK/USA Technology Committee Chair.

- Tax Manager **Joel Ackerman** is the Tax Committee Chair for DFK/USA.

- Audit Manager **Paul Becht** is on the Executive Board and the Chair of the Accounting and Auditing Committee of the NYSSCPA, Suffolk chapter.

- Senior Audit Manager **Jerome Hehir** is the Chair of the Small Business Committee of the NYSSCPA, Suffolk chapter.

- Audit Manager **Patrick Yu** is the Chair of the Not-for-Profit & Government Accounting and Auditing Committee of the NYSSCPA, Suffolk chapter. 

To change contact information for the HR Adviser, please contact us at info@hrcpa.com.

DFK Firm Spotlight: Taylor Leibow, LLP

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 issue we spotlight one of DFK's members in Canada – Taylor Leibow, LLP. We invite you to visit them at www.taylorleibow.com. 