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adviser



MARCH/APRIL, 2002

“Best of the Best” Again

For the sixth year in a row, Holtz Rubenstein has been cited among the 25 best accounting firms in America by Bowman’s Accounting Report (Atlanta, GA).

The “Bowman 100 Special Report” is the longest-running, most comprehensive independent analysis of the nation’s accounting firms, focusing on management operations. The Firm is honored to once again have earned the elite ‘Best of the Best’ distinction by

Bowman’s, the only firm in New York State to be included 6 times.

More than 260 firms participated in Bowman’s 11th annual analysis of firms. According to Bowman’s, “BEST OF THE BEST firms earn their honor because they outperform others in all areas of financial measurement and they are managed wisely.”

Managing Partner Frank Candia says, “This honor is a result of the hard work and talent of our partners, management and staff. We look forward to continue providing our clients technical excellence with a personal touch.”

Notable and Quotable

“The Interfaith Nutrition Network (“INN”) is one of the most worthwhile organizations for feeding our neighbors throughout the year and providing housing for those who need it,” says Partner **John McAteer**, who has been elected president of the organization. John has been involved with the INN for seven years, on the board of directors and most recently as its treasurer.

“Building Client Relationships” was the theme at the annual European Partners’ meeting of DFK International, the worldwide association of independent accounting and business advisory firms, in Strasbourg, France. Senior Tax Partner **Alan E. Weiner** attended the meeting, noting, “In the new economy, clients expect more from their accountants. Accountants who have not given their clients the comfort level of being part of the ‘team’ will find their clients looking elsewhere for assistance.”

Holtz Rubenstein has expanded its lawyer support services with the addition of **Frank R. Feis**, CPA, manager in the Lawyer Support and Business Valuation Services department. He has 13 years experience in top worldwide public accounting and auditing firms. Holtz Rubenstein’s lawyer support services help small and large law firms manage the financial aspects of their casework.

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It should be noted that qualifying small businesses that fall within any of the above three categories may use the cash method even for parts of their businesses, such as retailing or wholesaling, which otherwise would not qualify.

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IRS Makes the Cash Method More Available for Businesses

The Internal Revenue Service (“IRS”) announced, in a proposed revenue procedure, that it will allow certain small businesses with average annual gross receipts of \$10 million or less to use the cash method of accounting.

Under the new rules, a small business taxpayer is eligible to use the cash method of accounting if, in addition to having average annual gross receipts of more than \$1 million but less than or equal to \$10 million, the business meets any one of the following safe harbors:

- The taxpayer’s principal business activity is not retailing, wholesaling, manufacturing, mining, publishing or sound recording.
- The taxpayer’s principal business activity is providing services, including providing property incident to those services.
- The taxpayer’s principal business activity is custom manufacturing.

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Individual Retirement Accounts

The Economic Growth and Tax Relief Reconciliation Act of 2001 made some changes to the various types of Individual Retirement Accounts ("IRAs"), particularly to the Education IRA, which we have set forth below.

	Deductible IRA Contributions for 2001 and Future Years	Nondeductible IRA for 2001 and Future Years	Roth IRA	Nonworking Spouse IRA	Rollover of Existing Regular IRA to Roth IRA	Coverdell Education Savings Accounts (formerly Education IRA)
Adjusted gross income limit - single	\$33,000 for 2001, \$34,000 for 2002, increasing to \$50,000 by 2005	No income limit	\$95,000 - Partial deduction available for adjusted gross income between \$95,000 - \$110,000	N/A	\$100,000	Same as Roth IRA
Adjusted gross income limit - married	\$53,000 for 2001, \$54,000 for 2002, increasing to \$80,000 by 2007	No income limit	\$150,000 - Partial deduction available for adjusted gross income between \$150,000 - \$160,000	\$150,000 - Partial deduction available for adjusted gross income between \$150,000 - \$160,000	\$100,000	Same as Roth IRA increasing to \$190,000 after 2001 with partial deduction available for adjusted gross income between \$190,000 - \$220,000
Maximum contribution	Cannot exceed the greater of \$2,000 or earned income. \$3,000 in 2002 if under 50 years old. \$3,500 in 2002 if 50 years old or older.	Cannot exceed the greater of \$2,000 or earned income. 2002 increases the same as Traditional IRAs.	Cannot exceed the greater of \$2,000 or earned income. 2002 increases the same as Traditional IRAs.	Same as Traditional IRAs.	N/A	\$500 per year, per child increased to \$2,000 after 2001
Comments	Available to individuals not participating in an employer plan or single and married taxpayers whose adjusted gross income does not exceed the income limits even if they participate in employer sponsored plan. The contribution limits increase to \$5,000 by 2008 for individuals under 50 years old and to \$6,000 by 2008 for individuals 50 years old or older. For tax years beginning in 2002, individuals with low or moderate incomes can claim a non-refundable credit, based upon contributions to their IRAs. The credit is equal to an applicable percentage of their contribution (not to exceed 50%) based on an individual's filing status and modified adjusted gross income. The income limits are \$25,000 for single filers and \$50,000 for joint return filers. (This applies to Deductible and Nondeductible IRAs, Roth IRAs, and Nonworking Spouse IRAs.)	Anyone can make non-deductible IRA contributions. Contribution limits increase the same as for Traditional IRAs.	This is a nondeductible contribution. It must be designated as a Roth IRA at the time it is set up. Distributions of principal and built-up dividends, interest and capital gains are tax-free if certain specified conditions are met. Contribution limits increase the same as for Traditional IRAs.	Nonworking spouse can make contributions even if the working spouse is a participant in an employersponsored plan	Existing IRA accounts can be "rolled over" to a Roth IRA. A personal Federal and State income tax is incurred on the amount of the rollover.	The IRA document must provide that: (1) All contributions must be in cash. (2) Contributions cannot be made after the beneficiary reaches age 18. (3) Annual contributions may not exceed \$500, \$2,000 after 2001. Earnings on contributions will be distributed tax-free provided they are used to pay a beneficiary's post secondary education expenses. In 2002, the funds also can be used to pay for public, private and religious elementary and secondary school expenses. When the beneficiary reaches age 30, any balance remaining in the account must be distributed within 30 days and the earnings portion will be includible in the beneficiary's gross income.

NOTE: In no case can contributions to an individual's various IRAs for the taxable year exceed the revised annual limits. However, contributions still can be made to a Coverdell Education Savings Account in addition to the amount made to all other IRAs.



Saving for College Tuition: A Look at 529 Plans

This is an update of an article that appeared in the May 2001 Holtz Rubenstein Adviser

The Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") has made a major revision to the taxability of distributions from Qualified State Tuition Programs ("529 plans"). Beginning January 1, 2002, distributions from a 529 Plan are excludable from a beneficiary's Federal gross income to the extent that the distribution is used to pay for Qualified Higher Education expenses (defined in the previous article); however, distributions from a 529 Plan which are not used to pay for Qualified Higher Education expenses are subject to the same tax consequences as mentioned in the earlier article (which you can access at www.hrcpa.com, on the Firm News page, under the Holtz Rubenstein Adviser, May 2001 issue).

Another revision enacted by EGTRRA is that the definition of a qualified tuition program is no longer limited to state programs. It now includes prepaid tuition programs that are established and maintained by eligible private institutions that satisfy Internal Revenue Code Section 529 requirements. Persons who contribute to an eligible private institution's prepaid tuition plan are not allowed to contribute to a state's savings plan as well. Also, distributions from an eligible private institution's prepaid tuition program are not excludable from a beneficiary's Federal gross income until tax years after December 31, 2003.

There are Federal gift tax consequences associated with contributions to qualified tuition programs. For Federal gift tax purposes, contributions are considered a completed gift of a present interest, thus enabling them to qualify for the \$11,000 annual gift and generation-skipping transfer tax exclusion. A donor can elect to spread a gift over 5 years. This enables an individual to contribute \$55,000 (married couples, \$110,000) to any beneficiary in any given year without incurring gift taxes; however, the individual will not be able to make another tax-free gift to that beneficiary until the sixth year.

Please note – the above changes made by EGTRRA are subject to the sunset provision. These changes will not apply to tax years after December 31, 2010, unless Congress acts to extend this provision permanently. Since you may be setting up a plan for a child or grandchild who will not reach college age until after 2010, this could be an important point.


If you have any questions, contact Tax Supervisor Brendan Logan, at 631-752-7400, x-253 or BLogan@hrcpa.com. 

Patriot Bonds

As a throwback to the days during World War II when the Federal government sold war bonds to help finance the war effort, the United States Treasury has designated certain Series EE Savings Bonds as "Patriot Bonds."

Series EE Savings Bonds purchased through Financial Institutions and the Savings Bond Direct website (www.savingsbond.gov) will be specially inscribed with the legend "Patriot Bond." Although they have been promoted as a way for Americans to express their support for the Nation's war and recovery effort, proceeds from the sale of the "Patriot Bonds" will not be earmarked to help with the current war effort. The funds

will go into the United States Treasury general fund.

Series EE Savings bonds are considered a safe and stable investment. They earn 90% of five-year Treasury securities yields. The current rate in effect through April 2002 is 4.07%. The bonds sell for half their face value and are available in various denominations. The bonds increase in value monthly and interest is compounded semiannually for 30 years except for a three-month penalty that applies to bonds redeemed before five years. As an added attraction, Federal income tax on interest from Series EE savings bonds can be deferred until the bonds are redeemed and like all treasury interest it is free of state and local income tax. 

Guidance Issued for Tax-Free Basis Step Up of Personal Residence – The Answer is No!

The Internal Revenue Service has issued its response to the most interesting question resulting from the unique provisions of the Taxpayer Relief Act of 1997, allowing taxpayers to elect to report as income on their 2001 individual income tax return the built-in gain on a taxpayer's principal residence, based on the home's value as of January 1, 2001.



To recap prior articles in the HR Adviser, the TRA '97 provision permits a taxpayer to pay an 18% capital gains tax, instead of 20%, for capital assets owned for more than five years providing the asset was acquired on or after January 1, 2001. For assets acquired prior to January 1, 2001, a special 2001 tax return election is provided in order to make an asset eligible for the 18% capital gains rate, after five years, beginning in 2006. The law is applicable to assets (not just a principal residence) owned by individuals and flow-through entities on the 1st or 2nd of January, 2001.

The recent IRS ruling (and this article) is limited to the principal residence as the asset.

The intriguing question was whether, if the election was made, the taxpayer could then invoke the principal residence exclusion to reduce (or eliminate) the principal residence gain (up to \$250,000 for a single taxpayer or \$500,000 for married taxpayers.) The result would be a stepped-up basis in the residence and the commencement of a new two year holding period to perhaps exclude additional gain upon the actual sale of the property years down the road.

The IRS ruled that a taxpayer who makes the special election for a principal residence will be barred from using the principal residence exclusion. The end result is that taxpayers will not make the election because to do so will result in the payment of a Federal (and State) income tax.

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THE ADVISER CORNER

Warning!

The HIPAA Deadlines Loom

By Leo D'Sa

The next time a president chokes on a pretzel, falls down and bumps his head, the media will have a more difficult time getting you the inside scoop.

After more than five years of review, analysis, and comments, the Department of Health and Human Services has enacted regulations pertaining to the Health Insurance Portability and Accountability Act ("HIPAA") of 1996. Yes, the same act which initially addressed the "portability" of health insurance from job to job, also included reference to administrative simplification of electronic transactions, as well as issues of privacy and security of patient information. Unless granted an extension, health care providers and affiliates (hospitals, nursing homes, health care agencies, doctors, treatment center, x-ray laboratories, etc.) must comply with these new rules by October 16, 2002, October 16, 2003, or April 14, 2003, depending on the Act.

The new federal regulations are aimed at protecting Protected Health Information ("PHI") – i.e. individually identifiable health information. PHI can not be communicated to outside parties electronically, on paper, or verbally without authorization. The only exception, however, is when an individual's health information is extracted from the given data and not linked to that individual.

HIPAA was initially established to secure and protect the privacy of one's health information. Due to breaches in the privacy and security of PHI, the essence of HIPAA has been extended to encompass several other elements:

Standards for Electronic Transactions ("SET")

All health care providers now must submit their claims in accordance with the new standards. This new standardized claim information is significantly different than the current claim forms being used by health care providers, such as the HCFA 1500, UB92, etc. HIPAA has specified standards for claims form and data content on both electronic claims and paper claims thus

reducing the need for unnecessary information. These specifications on standardized claims will result in cleaner claims and ultimately quicker payments. Failing to adhere to the SET standards would result in penalties by the federal government. It is therefore imperative that health care providers take the time to address the issue. SET regulations were finalized on August 17, 2000. Full compliance is due by October 16, 2002, although there is a one-year extension granted to October 16, 2003, only if a compliance plan is filed and put into effect to demonstrate the rollout of SET.

Standards for Privacy Act ("SPA")



SPA is the privacy aspect of HIPAA. SPA restricts health care providers from disclosing PHI without written consent and authorization from the patient. Consent and authorization must be specific for each instance information is disclosed. Under SPA, health care providers must also adhere to certain Administrative Requirements (the when, where, what, why and how of the information), Individual Rights (the person who is the subject of PHI has the right to inspect, obtain copies and request information to change) and Contracts with Business Associates (any business or vendor who receives or creates PHI for the covered health care facility). Compliance would be a cumbersome task if a system is not in place; therefore, SPA requires health care providers to assign a Privacy Officer to monitor the policies and procedures, training and education, and to receive and review complaints. The Privacy Officer will have to maintain the policies and procedures of SPA even if there are changes in the company's operations. SPA regulations were finalized on December 28, 2000. Full compliance is due by April 14, 2003 and there is no extension. Note: On March 21, 2002, the Bush administration proposed some modifications on the consent requirement of the act. These modifications will affect physicians, hospitals, and pharmacists/drugstores.

Standards for Security Act ("SSA")

SSA is the security aspect of HIPAA. Although the standards have not been finalized nor given a due date, it is of paramount importance to understand the magnitude of security necessary for PHI. Health care providers need to follow good business practices in safeguarding both the

E-Z Pass

Did you know that the average life of an E-Z Pass tag (as it's called) is only five years?

Since E-ZPass became popular in 1996, old tags will need to be replaced. You need only call  1-800-333-TOLL (8655) to arrange for a new tag. Be sure to have your account number available when you make the call. 

physical and technical aspects of PHI. Access controls, audit trails, and encryption of electronic media transmissions are imperative, as well as safeguarding to prevent unauthorized use of PHI both within and outside the organization and/or over the Internet. Furthermore, SSA also requires a Security Officer to periodically review policies and procedures, train and educate as well as receive and review complaints. The Security Officer must maintain the policies and procedures of SSA even though there are changes in the company's operations. SSA regulations were proposed on August 12, 1998.

Standards for National Provider and Employer Identifiers

Just as individuals have a social security number that stays constant through a lifetime, Standards for National Provider Identifiers would assign a standard number to health care providers and health plans, and Standards for National Employer Identifiers would assign a standard number to employers and employees. No matter whether companies or insurance plans change, an individual's medical identifying number would be standardized and would not change. The standards would make eligibility easier, claims processing more accurate, and innumerable health care provider problems would be alleviated. When Standards for National Provider Identifier and Standards for National Employer Identifier are finalized and implemented, HIPAA requirements will be in full effect.

Who needs to comply?

All health care providers who transmit any PHI in electronic form (electronic file transfer, Internet, direct linked, fax, etc.), health plans and health care clearinghouses

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How Much Credit Do Your Customers Deserve?


When you visit the firm's website, www.hrcpa.com, not only will you see a new format, but you will also find a new feature – access to credit reports at reduced prices from Experian and Dun & Bradstreet, through our link with the National Credit Group (“NCG”).

NCG is an online credit services provider, helping businesses develop and implement solid credit policies through a full range of credit management tools. These tools are specifically designed to let you do business more effectively, including online access to credit information, debt collection services and accounts receivable monitoring.

Credit can be summarized as the management of risk. A basic characteristic of all business credit is a time lapse between the buyer's receipt of goods or services and payment for those goods and services. Deciding how much credit to advance can be a difficult decision. When evaluating cases that involve granting an “open account” the most important question to answer when deciding how much credit granted to a potential account is, “Can the customer pay?”

As a small or medium size business owner, one large uncollected receivable can be a major setback. As a larger business, a large accounts receivable (“AR”) can limit your cash flow and give your competitors the upper hand. Even if you currently may not be experiencing any problems managing your accounts receivable, or your company has a healthy cash flow, you could integrate some simple techniques in the way your company handles AR that would result in a competitive edge.

NCG provides products and services including online access to business credit reports from Dun & Bradstreet and Experian, at reduced prices; collection services; accounts receivable monitoring; training; and online support. NCG is not affiliated with the Firm, although NCG remits a small fee to the Firm when you use its products.

Take a step in the right direction by knowing who your customers are before extending credit. 

Know Your CPA – Joe Chase

This issue we introduce a new feature, designed to give you a fun, unique perspective of the CPAs you know.

You know him as... Audit Supervisor, working for the past 7 years with SEC and privately-held companies in industries including professional service organizations, manufacturing, wholesale, distribution, real estate, and construction.




Personal details... He's 28 years old, not married, and loves being outside, especially playing golf.

Best thing about the job is... Learning constantly and having the ability to teach younger staff.

Most embarrassing moment was... I was new to the firm, at a client, sitting on a desk, talking on the phone. I hung up, got up, and the whole desk caved in. The client laughed, but my supervisor was less than impressed.

If I wasn't an accountant, I would have been... A marine biologist (okay, that's from Seinfeld).

Favorite saying... “Off the charts.” 

Tax Scams

The IRS is alerting taxpayers to be wary of tax savings techniques that sound too good to be true. The tax return filing season tends to be the busy season for con artists looking to take advantage of unsuspecting taxpayers. Some of the most common illegitimate tax schemes include:

- The African American Tax Credit – Con artists posing as tax practitioners tell their African American clients that they are entitled to a “Slavery reparation credit.” Official looking claim forms are prepared and attached to Income Tax returns.
- Abusive Trust Schemes – Abusive Trust Schemes typically involve the creation of one or more trusts into which the taxpayer transfers his or her personal and/or business assets and to which the taxpayer assigns his or her income. Vertical layers of trusts are created with each trust distributing income to the next layer. The intent is to fraudulently reduce taxable income to nominal amounts. In addition, trust documents are prepared and trustees are appointed to give the appearance that there is separation of responsibility and




control from the benefits of ownership when in fact the trusts are controlled by the taxpayer. In order for a trust to be valid, the responsibility and control must be separate from the benefits of ownership.

- “I don't pay taxes – why should you?” – Con artists claim to have secret methods of avoiding income taxes. Some packages are sold on the Internet that promote taxation as being voluntary.

Other methods involve the use of phony social security numbers for non-existent dependents as well as fraudulent W-2 Forms which show excessive withholding in order to get a bigger refund.

Falling prey to these and other tax scams will not only cost the taxpayers the money they paid to the unscrupulous individuals promoting them, the taxpayers can be assessed interest and penalties by the IRS as well as facing possible criminal charges.

The Criminal Investigation Unit of the IRS is working diligently to counteract the proliferation of these tax scams. They ask that all suspected fraudulent tax schemes be reported.

Tax savings techniques that sound too good to be true, probably are. If you are not sure, contact a member of our tax department. 

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IRS Makes the Cash Method More Available for Businesses

Businesses that are permitted to use the cash method and that do not want to account for inventories must treat all inventoriable items in the same manner as nonincidental materials and supplies.

Under treasury regulations, materials and supplies that are not incidental are deductible in the year in which they are actually consumed or used in the taxpayer's business. In other words, materials and supplies that are on hand at the end of the year need to be capitalized.

It is also important to note that even though the proposed revenue procedure doesn't apply to taxpayers with average annual gross receipts of \$1 million or less, they are generally permitted to use the cash method under guidance issued by the IRS in 2000.

Additionally, "C" corporations or partnerships with "C" corporation partners that have average gross receipts over \$5 million may not use the cash method by statute and, therefore, the proposed revenue procedure does not apply to these entities.

The Revenue Procedure is effective for tax years ending on or after December 31, 2001. Additionally, qualifying small business taxpayers that want to use the cash method must follow the automatic change in accounting method procedures issued by the IRS.

For more information on these new rules, contact Tax Manager Sid Leibowitz at 631-752-7400, x-265 or SLeibowitz@hrcpa.com.



Attention Mileage Fanatics! – Redux

If you have the Delta SkyMiles credit card (issued by American Express), you could be the beneficiary of double "tax" miles.

We alerted you to the "double Delta SkyMiles benefit for Federal personal income tax payments" last year and it bears repeating again this year. For complete details, check the Firm News page on our website, www.hrcpa.com, under the Holtz Rubenstein Adviser, March 2001 issue. For further information on this year's offer, and limitations about the program, go to www.americanexpress.com and enter "Delta SkyMiles" in the search box.

Hold the presses! On March 20th, the IRS announced that VISA had been added to American Express, MasterCard and Discover Card as acceptable for charging your Federal tax liability, subject to your credit limit. Remember that a 2-1/2% "convenience fee" is charged by the provider of this service (not the IRS) and that only the Delta SkyMiles card offers double mileage.

Another piece of good news for frequent flyers is the IRS announcement that personal use of frequent flyer miles is not taxable. This has been an unanswered question of importance to business travelers (who also accumulate miles from personal travel and the use of personal credit cards) using miles for personal trips. It's not a complete exoneration, however, since the IRS says that the announcement will not apply where the benefits are converted to cash or to compensation that is paid in the form of travel.



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Guidance Issued for Tax-Free Basis Step Up of Personal Residence – The Answer is No!

It remains to be seen whether, and when, the IRS will issue guidance for the use (i.e., triggering) of carryovers to 2001 of capital losses, passive activity losses, net operating losses, at-risk limitations, partnership basis limitations, and other similar carryovers, to offset (reduce) the elected gain on other assets, and ultimately reduce the actual tax to be paid. Unlike the principal residence exclusion which is a permanent elimination of a potential gain, the absorption of carryovers is generally a timing difference – an acceleration to 2001 of the use of a loss, and the reduction of a loss for use in a future year.

The IRS should not have as much of a problem in reaching a pro-taxpayer decision, if in fact it chooses to issue guidance for carryover absorption; however, there are technical provisions which the IRS could apply to reach a contrary result.

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Notable & Quotable

Supervisor **Patrick Yu** is co-captain of Team Holtz Rubenstein for the M.S. Walk on April 21. Over 100 HR employees and friends and family members will be walking to raise money for the Long Island chapter of the M.S. Society, of which Partner **Gary Carpenter** is Chairman.



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Adviser Comer - HIPAA

are covered and must comply with HIPAA. HIPAA also applies to anyone who receives or creates PHI from the covered health care facilities, even though the covered health care facilities will be held responsible for any breach of PHI.

Ultimately, the industry will be mandated to comply with these new and effective standards established by HIPAA or will face civil or criminal penalties. To make it easier, providers should examine their corporate compliance programs to incorporate the regulations of HIPAA. Once the regulations are understood and implemented, HIPAA will optimize employee productivity, result in improved profits and be of great benefit to the health care industry.

For more information, contact Manager Leo D'Sa at 631-752-7400 x-286 or LDSa@hrcpa.com.



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. Please consult your HR & Co. adviser before taking any specific actions.

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DFK Firm Spotlight: Kanaka Puradiredja & Rekan

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 DFK's member in Indonesia – Kanaka Puradiredja & Rekan. Visit them at www.kanaka.co.id and click for the English version.

