

**merger** *n.* The combination of two companies.

**Holtz Rubenstein Reminick merger** *n.* The chance to provide clients with the best possible services and people.

## Introducing: Holtz Rubenstein Reminick

We are pleased to announce a merger of two vibrant, progressive accounting firms. Holtz Rubenstein & Co., LLP and Reminick, Aarons & Company, LLP have merged their practices. The merged firm will be known as **Holtz Rubenstein Reminick LLP**.

Why a merger? We look forward to the opportunities available to a firm with a full office presence in New York City, as well as Long Island.

The merged firm will have approximately 150 people, including 21 partners, thanks to the admission into the partnership group of *Anthony Bracco, Patrick J. Fahey, and Paul J. Finegan*. We congratulate them and look forward to their future successes.


The firm expects to be included among the top 100 accounting firms in the country. As a larger firm, we can bring more value and service to our clients by increasing our depth of resources, adding additional services, and growing the knowledge base of our personnel. It accomplishes a goal, as part of the strategic plan, to grow our services through mergers, so that we could provide you with more resources and specialties.

Each firm has unique practice area strengths that will be brought into the combined firm. Reminick's strengths – financial services for high net worth individuals, trust and estate services, and law firm support services – will complement Holtz Rubenstein's strengths – auditing and tax consulting for middle market public and private companies, health care and not-for-profit audit and consulting, and benefits and computer consulting.

What will not change is our commitment to continuing a strong, ongoing relationship with our clients.

In the coming months we will provide you with information about Holtz Rubenstein Reminick's enriched depth of services. Please visit our new website, at [www.hrllp.com](http://www.hrllp.com).

In the meantime, we are comfortable in the knowledge that the level of professional skills of the people in our combined firm is second to none.

If you have any immediate questions, please contact Managing Partner Frank Candia at (631) 752-7400, [FCandia@hrllp.com](mailto:FCandia@hrllp.com) or Andy Weiss, partner in charge of the New York City office, at (212) 697-6900, [AWeiss@hrllp.com](mailto:AWeiss@hrllp.com). 

## This Issue

- **Introducing: Holtz Rubenstein Reminick**
- **Save Those Crummey Letters**
- **New York State Tax Law Changes**
- **DFK Regional Firm of the Year – Holtz Rubenstein**
- **CyberNotes: Alibris.com, NYAGR.org**
- **Compensation Practices of Exempt Organization**
- **Deferred "Like-Kind" Exchanges**
- **A First for Some International DFK Firms**
- **The Adviser Corner: New Checks for the New Millennium**
- **DFK Firm Spotlight: Crowleys DFK**
- **2005 Holtz Scholarship Winners**
- **Notable and Quotable**
- **Accelerate Spending to Accelerate Tax Breaks**

We welcome the clients and other friends of Reminick Aarons as readers of the bi-monthly HRR Adviser, which has been written and produced by Holtz Rubenstein for more than 25 years.

## New York State Tax Law Changes

This summer, Governor George E. Pataki signed the 2004-2005 state budget bill. The following is a summary of the most significant tax provisions enacted:

### Sales and Use Taxes

- For all clothing and footwear purchased for less than \$110, there is a temporary suspension of the statewide sales and use tax exemption through May 31, 2005 for those items. Previously, the exemption was going to be instituted on October 1, 2004. The bill does, however, provide a one-week sales tax holiday for these items from January 31, 2005 to February 6, 2005. Localities have the option as to whether or not to participate in the statewide exemption. Nassau County, for example, has not participated in prior sales tax holidays. Note that temporary suspensions have a way of becoming permanent via continuing postponements.

- A sales and use tax exemption will be allowed for maintenance and services performed on aircraft, including any tangible personal property purchased and used in performing the services, provided the property becomes a physical component part of the property upon which the services

are performed or is a lubricant applied to the aircraft. The exemption from sales and use tax is for a five-year period between December 1, 2004 and November 30, 2009.

- Effective January 1, 2005, the State agencies are prevented from entering into contracts with contractors and sub-contractors (including any of their affiliates) that are not registered for New York sales and use tax purposes, if the contractor's total sales within New York of tangible personal property or taxable services exceeds \$300,000.

- Alternative fuel vehicles (such as electric or hybrid vehicles) are exempt from sales tax thru February 28, 2005. Also, corporate franchise and personal income tax credits, allowable from purchase of these vehicles, were extended through December 31, 2004.

### Franchise and Personal Income Taxes

- Effective for tax years beginning in 2004 and 2005, the gross payroll levels that

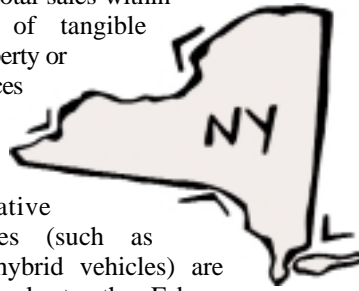
determine the amount of the fixed dollar minimum tax due from corporations for franchise tax purposes are amended to provide higher levels of tax for gross payrolls exceeding \$6.25 million. The new payroll levels and tax due for "C" corporations and "S" corporations are set forth as follows:

- for gross payrolls of \$25 million or more, the fixed dollar minimum tax due would be \$10,000;
- for gross payrolls of \$6,250,001 to \$24,999,999, the fixed dollar minimum tax due would be \$5,000;
- for gross payrolls of \$1,000,001 to \$6,250,000, the fixed dollar minimum tax due would be \$425;
  - for gross payrolls of \$500,001 to \$1 million, the fixed dollar minimum tax due would be \$325; and
- for gross payrolls of \$500,000 or less, the fixed dollar minimum tax due would be \$100, but with an exception where the gross payroll is \$1,000 or less, and total receipts within and without New York State are \$1,000 or less, and the average value of the gross assets are \$1,000 or less. In this case, the fixed minimum tax due would remain at \$800.

- For New York franchise tax purposes, the legislation extends the 17% surcharge on "C" corporations imposed in the Metropolitan Commuter Transportation District ("MCTD") through tax years ending before December 31, 2009. The MCTD includes the counties of New York, Bronx, Kings, Queens, Richmond, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

- New York State nonresidents who have sold New York real estate at a profit, whether the property was used as a primary or secondary residence, always have had to pay New York State income tax and now sales of co-op shares, at any time in 2004, have been expressly included. Just as is true for a real estate gain, if the co-op sale qualifies for the Federal principal residence exclusion, that exclusion also applies when calculating the New York State income tax.

For taxpayers subject to New York State tax, the seller's 2004 estimated income taxes



## CyberNotes

### Alibris.com


Collectors of rare and hard-to-find literary works will enjoy browsing through **Alibris.com**. This well designed, organized site offers a wide selection of out-of-print, out-of-stock and rare books.

Want a good weekend read? **Alibris.com** can give you suggestions. Are audiobooks more your style? The website covers that, too. Among its extensive inventory of new and used books, visitors also will find helpful articles on collectible books and reviews.

Alibris.com also offers suggestions in the areas of movies and music, too. Whether you want to find all of Sean Connery's James Bond films or the complete works of Ray Charles, visit **Alibris.com**.

### NYAGRx.org

The New York State attorney general's office provides this site for the purpose of comparing the pricing of commonly prescribed medications. Think of it as your own personal comparison shopper. At **NYAGRx.org**, current prices are collected from local pharmacies throughout the state, and it is updated on a monthly basis. Search by city, county or zip code to find the best prices for the medications you need.

**NYAGRx.org** also provides relevant articles to help control the monthly cost of prescription medications. Additionally there are links to various websites that offer guidance and support on related health care topics. 

should be addressed. A Fourth quarter estimated tax payment may be required to avoid penalties. For sales occurring on or after November 18, 2004, New York State is requiring that an income tax be withheld on the nonresident's gain related to the sale unless an exemption applies.

For example, if the sale of the co-op, which was used as a secondary vacation home, occurred on December 1, 2004 and the gain on the sale was \$100,000, the seller would be required to have withheld, based upon the 7.7% New York State individual income tax rate, \$3,850. If the sale occurred prior to November 18, 2004, the estimated income tax would be due by January 15, 2005 on Form IT-2105-MN, *Estimated Income Tax Payment Voucher*. If the co-op was used as the seller's primary residence, the gain would be excluded under Federal law, and no tax would be due.

- The aggregate amount of the low-income housing credit available for the construction or rehabilitation of low-income housing has been increased from \$4 million to \$6 million.

- Long-term care credit against the personal income and franchise taxes will be increased from 10% to 20% of the premium paid for long-term care insurance during the tax year.

- The legislation also provides a tax credit against the corporate franchise and personal income taxes, for tax years beginning in or after 2004, for qualified film production companies, or sole proprietors of qualified film production companies equal to 10% of the qualified production costs paid or incurred in the production of a qualified film. The credit applies to various productions including, but not limited to, documentary films, news or current events programs or music videos. The credit is allowed only for the tax year in which the production of the qualified film was completed. New York City has been authorized to adopt and amend its local laws decreasing their credit to 5%. Productions that will not qualify for the credit include interview programs, talk programs, and documentaries.

## NEW YORK CITY

- The New York City earned income credit is available to residents equal to 5% of the federal earned income tax credit.

## Deferred "Like-Kind" Exchanges

Any opportunity for a taxpayer to delay payment of taxes on any source of income would be beneficial. A "like-kind" exchange is an opportunity to exchange similar property used in business or for investment purposes, without recognizing any gain or loss on a sale of such property and deferring any income earned on the exchange until the exchanged property is sold.

Deferred "like-kind" exchanges provide an opportunity for businesses to exchange the like-kind assets by relinquishing their own property to a third party, rather than simultaneously purchasing suitable like-kind property. Within 180 days of the transfer of the relinquished property the taxpayer must acquire like-kind property from a third party. The 180-day time period allows people to have time to locate qualifying property.

The tax regulations on these deferred like-kind exchanges did not allow "reverse" Starker exchanges, which is where the property acquired in the exchange is obtained before the taxpayer relinquishes its own property.


In a 2000 revenue procedure, safe harbors were created to allow taxpayers to "park" the acquired asset with a third-party, which then becomes the titleholder to the property. Meanwhile, the taxpayer must locate within the 180-day period another company willing to purchase the asset and make an exchange.

Once located the taxpayer must relinquish the property to the titleholder in a "tax-free" exchange. The titleholder subsequently relinquishes the property to the second company.

The IRS has issued some restrictions regarding reverse like-kind exchanges of property already owned by a taxpayer. The Service has disallowed the taxpayer's use of the like-kind exchange rules to avoid recognizing gain on the sale of assets. The recent procedure no longer allows taxpayers to make a deferred tax exchange by relinquishing and taking back the same asset through manipulation of the "parking" safe-harbor rules.

Under the current Revenue Procedure, the safe harbor for parking transactions is not available to parking transactions after July 19, 2004, for any taxpayer who uses the property they owned before the exchange as replacement property.

An example of an improper use of these exchanges is a taxpayer who takes the proceeds from the sale of real estate to pay for improvements to other real estate owned by the same taxpayer or a related party. Taxpayers were deferring the gain and claiming like-kind exchange treatment when they transferred property to the third party and received the same property back as replacement property.

For more information, contact Tax Manager Joel Ackerman at 631-752-7400, x-262 or [JAckerman@hrrllp.com](mailto:JAckerman@hrrllp.com). 

- For tax years after 2003, all excess deductions allowed for sport utility vehicles will be disallowed under the New York City unincorporated business, general corporation and banking corporation tax laws.


*For a more extensive discussion of the effects of the State (and now, City) adjustment, see the November/December 2003 issue of this newsletter by clicking on the HR Adviser link on the "Firm News" page of our website, [www.hrrllp.com](http://www.hrrllp.com)*

- A \$400 property tax rebate will be available to 1-, 2-, and 3-family homeowners, as well as cooperative and condominium owners, who live in their

homes as a principal residence.

- The New York City Department of Finance is authorized to accept and require payment of New York City real property taxes via electronic funds transfer for properties with annual real property tax liability equal to or exceeding \$300,000.

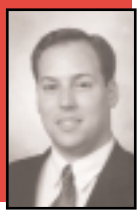
- The legislation also establishes a minimum interest rate of 6% for underpayments of New York City unincorporated business tax.

For more information about these new provisions, contact Tax Manager Joel Ackerman at 631-752-7400, x-262 or [JAckerman@hrrllp.com](mailto:JAckerman@hrrllp.com). 

## New Checks For The New Millennium

By Paul E. Becht, CPA

On October 28, 2004, check processing will officially enter the 21<sup>st</sup> Century. A new federal law – Check Clearing for the 21<sup>st</sup> Century Act (“Check 21”) – will take effect, bringing about a more efficient check processing system. Banks are currently gearing up for the approaching effective date.



Paul Becht

The new law allows banks to create a “substitute check” to be sent to the recipient or to make a digital image of the original check for the recipient. A substitute check is a paper reproduction of the original check, which meets certain criteria. In the other option, a paper check is converted into a digital image that can be sent electronically from one bank to another, resulting in greater efficiency through ease of transportation.

Check 21 does not require that all banks change their current check collection practices. It simply allows banks to use substitute checks for processing. The government’s goal is to use substitute checks to facilitate electronic check collection processing. No longer will payors be able to take advantage of “float

An example of how Check 21 would work:

“New York Mutual,” a depository bank in New York City, receives a check drawn on “Los Angeles Community Bank” (the paying bank, in California). Under the old system, New York Mutual must present the original paper check to Los Angeles Community Bank for payment.

However, with the implementation of Check 21, New York Mutual could transfer the check information electronically to “Bank of Los Angeles,” a collecting bank in L.A. with which it has an agreement,

though not necessarily the paying bank. Bank of Los Angeles would then create a substitute check to present to Los Angeles Community Bank. Instead of sending the original check across the country, New York Mutual could collect the substitute check using local transportation in L.A.

Why change the current system just so banks can process checks a few days earlier? The primary reason is that Check 21 will save banks money. By electronically processing checks, the costs incurred in transporting checks, by air or ground transportation, will be eliminated. For years, many banks already have been electronically processing checks to take advantage of the cost savings. However, in the days following the terrorist attacks of 9/11, the processing of millions of checks was delayed as air traffic was grounded. Since then, electronic check processing has become a priority for the nation’s banking system.


Besides providing for a more efficient banking system, the law will potentially reduce check fraud. Check kiting is a common cash fraud scheme in which the perpetrator writes checks against a bank account with insufficient funds to cover the checks. In addition to preventing check kiting, by removing the original check from the processing system and converting it into an electronic format, the likelihood that someone will physically come in contact with the check is reduced. By accelerating the processing time, fraudulent activity will most likely be discovered sooner, thereby improving the chances of catching criminal activity.

One of the Act’s benefits to consumers is the requirement that banks notify customers if fees will be charged for returning cancelled substitute checks to the customer. In addition, in cases where a consumer is improperly charged on a substitute check due to error or fraud, banks must re-credit the consumer’s account 10 business days following the day the claim is made. Note that this re-crediting process does not apply if the consumer receives the original check or an image, rather than a substitute check.

There are some aspects of Check 21 that may be disagreeable to customers. In


### 2005 Holtz Scholarship Winners

Each year, Holtz Rubenstein selects students from Hofstra University to receive the William J. Holtz Endowed Memorial Scholarship, named after the late co-founder of the firm. The scholarship is awarded to a Long Island resident who is a full-time accounting student with a GPA of 3.0 or greater, who has demonstrated civic contribution and a requirement of financial aid. This year’s winners are Stacey Gormin and Shafik Hirji, who each receive the scholarship.

The scholarships were awarded at the annual spring induction ceremony of Beta Alpha Psi, the national accounting honor society. If you are interested in contributing to the scholarship fund, please contact Partner Gordon Siess at 631-752-7400 x-315. 

many cases, people will be unable to get back their original checks. Those who are accustomed to receiving all of their original checks back with their bank statements will instead receive substitute checks or images of the original checks. Substitute checks will be considered the legal equivalent of the original check under both state and federal laws. So if the IRS questions a deduction on your tax return, you may provide them with a substitute check rather than the original.

One of the biggest misconceptions about Check 21 is that the new regulation will eliminate float and allow quicker access by recipients to funds. “Float” is the period of time required between the moment a check is written until that check clears the bank. The hold time placed on deposited funds will be unaffected by Check 21. Payors should note that checks will clear faster, but the funds will not become available to recipients any quicker than under the current system.

For more information on Check 21 and how it may affect your personal or business checking account, contact Audit Manager Paul Becht at (631) 752-7400 x-224 or [PBecht@hrcpa.com](mailto:PBecht@hrcpa.com). 

## Accelerate Spending to Accelerate Tax Breaks

After the events of September 11, 2001, our nation's economy slowed much quicker than the Federal Reserve and many economists had hoped. To counter this effect, Congress gave businesses an additional 30% bonus depreciation deduction on certain equipment placed in service after September 10, 2001.


With the economy still lagging, that bonus was increased to 50% in May 2003. This allowed businesses to immediately expense over 50% of the cost of an asset in the first year that asset was placed in service. (Not only does one get the 50% bonus depreciation, but also the normal yearly depreciation deduction based on the asset's purchase price, less the amount of bonus depreciation taken.)

And there is more good news. When more than 40% of the aggregate bases of property are placed in service during the last three months of the tax year, the property is treated as placed in service during the midpoint of the quarter. This will reduce your normal MACRS depreciation amount. However, the Mid-Quarter Convention does not apply to the 50% bonus depreciation. It only applies to the regular depreciation claimed.

## Save Those Crummey Letters

When calculating taxable gifts, a donor may claim an annual exclusion of \$11,000 per donee, provided that the gift is of a present interest. Taxpayers who fund trusts for the benefit of their children and grandchildren frequently rely on the so-called *Crummey* provision of the trust to claim the annual exclusion. (The term "Crummey power" is used because a 1968 case involving D. Clifford Crummey established that this power of withdrawal was sufficient to satisfy the requirement of a gift of a present interest.) The *Crummey* language creates a gift of a present interest by allowing the beneficiary to withdraw his share of the contribution to the trust for a limited period of time.

In order for the gift to qualify as a gift of a present interest, the beneficiary must be notified of his right of withdrawal. No specific form of notification is required, and the notification does not have to be attached to the gift tax return or to any other tax return. However, upon examination of the estate tax return, agents will ask for copies of the *Crummey* letters. Failure to produce these letters will result in the agent asserting that the contributions to the trust in all prior years constituted taxable gifts, which are added to the value of the gross estate for purposes of calculation of the estate tax.


Therefore, donors should retain copies of all *Crummey* letters indefinitely and be sure that their executors know the whereabouts of these letters. In addition, because the trust beneficiaries are often the beneficiaries of the estate and stand to bear the ultimate cost of any estate tax assessed, the beneficiaries should also maintain their copies of the *Crummey* letters so they can provide them to the executor if needed. For more information, contact Senior Tax Manager Barry Nagler at (631) 752-7400 x-354 or [BNagler@hrrllp.com](mailto:BNagler@hrrllp.com). 


## DFK Regional Firm of the Year – Holtz Rubenstein

Holtz Rubenstein is proud to have been named Regional Firm of the Year by DFK International, the worldwide association of independent accounting firms of which we are a member.

In its inaugural year, the objective of the Regional Firm of the Year Awards is to recognize firms in each of DFK's three regions (The Americas, Europe, and Asia-Pacific) that have made the greatest contributions to the association, and their communities. Holtz Rubenstein was awarded the first Regional Firm of the Year for the Americas based on its varied participation in DFK committees, conferences, and meetings; the ability to attract new member firms into the association; promotion of DFK International in our local community; and contribution of new ideas to the membership.

"Holtz Rubenstein are worthy winners. The firm consistently has taken a leadership position in the activities of DFK International with partners taking senior positions on boards and committees of the association. The firm also has earned a high reputation with fellow members for the manner in which it has handled clients referred to the firm by other international members of the association," remarks Simon Fraser, Executive Director of DFK International.

The partners and staff remain active with DFK International. Among other involvements, Partner Alan Weiner is the Vice President of the Americas for DFK International, and Partner Howard Weiner is a past president of DFK/USA, the American arm of the association. 


This "bonus" deduction will expire by the end of 2004, regardless of the company's year-end. Many companies will accelerate spending in order to take advantage of this opportunity. If your company was planning on making equipment purchases during the beginning of 2005, it may be wise to make those acquisitions before year-end. 

## Compensation Practices of Exempt Organizations

The IRS has launched a new enforcement effort to identify and halt abuses by tax-exempt organizations that pay excessive compensation and benefits to their officers and other insiders.

Under the program, the IRS is contacting nearly 2,000 charities and foundations to seek more information about their compensation practices and procedures. The IRS said the enforcement project will consist of examinations as well as other contacts. Because part of the project's objective is to gather information regarding current practices, contact by the IRS should not necessarily imply improper activity by an organization.

The project's goals are to address the compensation of specific individuals and questionable compensation practices, increase the IRS's presence in the Exempt Organization (EO) community, influence how organizations set compensation, and learn more about existing practices as organizations set compensation and report it to the IRS and the public on their annual Forms 990, Return of Organization Exempt From Income Tax.

For more information, contact Partner Gordon Siess at (631) 752-7400 x-315 or [GSiess@hrrllp.com](mailto:GSiess@hrrllp.com). 

## A First for Some International DFK Firms

Holtz Rubenstein was one of the first firms to be approved by the new Public Company Accounting Oversight Board (“PCAOB”) to audit SEC companies.

Now, three of our fellow DFK International member firms have become among the first accounting firms outside the US to get the approval of the PCAOB – Chantrey Vellacott DFK (United Kingdom), Fàbregas Mercadé & Co. (Spain) and Saeed Kamran Patel & Co. (Pakistan).




It is a testament to the continuing effort of DFK firms around the world to provide quality services to its clients.

For information on DFK International and its member firms, contact Partner Alan E. Weiner at 631-752-7400 x-330 or [AEWeiner@hrrllp.com](mailto:AEWeiner@hrrllp.com). 

### DFK Firm Spotlight: Crowleys DFK

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 and to other clients throughout the United States and the world.

This issue we spotlight one of DFK's members in Ireland – **Crowleys DFK**. We invite you to visit them at [www.crowleysdfk.ie](http://www.crowleysdfk.ie). 

To change  
contact information for  
the HRR Adviser,  
please contact us at  
[info@hrrllp.com](mailto:info@hrrllp.com).

## Notable and Quotable

Our firm is sad to say goodbye to Senior Accountant **Robin Chia**, who has traded in 6- and 7-day workweeks during tax season for retirement. Born in Malaysia, Robin got his Bachelor's and Masters' degrees in Kentucky before joining what would become Geschwind & Geschwind, working alongside father and son, Sidney and Neil. He worked there for over 2 decades before the firm merged with Holtz Rubenstein. Robin has been working with our small business clients ever since.



“I've had the pleasure of working with Robin for over 30 years. He is dedicated, loyal, hard working – in fact, there are not enough good words to describe him. He's like family, and will be missed,” says Partner **Neil Geschwind**. The firm wishes Robin good luck in retirement!

**Neil Geschwind** participated in a panel discussion Smith Barney and Citigroup gave to attorneys and accountants, discussing the accounting and budgeting aspects of people in matrimonial transition, whether through divorce or death.

In addition, Neil has been elected to the board of the Huntington Chamber of Commerce.

Healthcare Operations Specialist **Al Conti** was a featured speaker at the Home Care Association's Senior and Financial Management Conference. Al hit one out of the park at the conference in Cooperstown, NY, discussing HIPAA compliance, misconceptions, and key facts.

Each year, accountants must hone their skills, attending educational seminars to earn continuing professional education (CPE) credits. One such

educational event was DFK/USA's Multi-Disciplinary Conference, held in Atlanta, which was organized, in part, by Holtz Rubenstein Tax Manager **Joel Ackerman**. Both Ackerman and Audit Partner **Andy Vuono** were featured speakers. Partners **Howard Weiner**, **Barry Garfield** and **Arnie Haskell** also attended the conference.

In addition, in Shanghai, China, **Howard Weiner** addressed the 2004 conference of DFK International about the practice opportunities of the Sarbanes-Oxley Act and its Section 404 for foreign accounting firms.

At the conference, Partner **Alan E. Weiner** was re-elected as Vice President of the Americas (which includes North, Central, and South America).

How can homeowners avoid the “mansion tax” when buying homes over \$1 million? That was the subject of a *New York Times* article in which **Alan E. Weiner** recently was quoted.

The firm is pleased to welcome two new auditors:

- **John Pavuk** is a senior accountant, working mainly with the firm's not-for-profit and health care clients. He is a candidate member of the New York State Society of CPAs (“NYSSCPA”).
- **Joseph Purpura** earned a B.S. degree in accounting from C.W. Post and joins the firm as a semi-senior accountant. He also is a candidate member of the NYSSCPA.

The staff of Holtz Rubenstein helped donate 94 pounds of food to Long Island Cares, for their summer food drive. 