

Buxmont Accountant

Buxmont Chapter

PA Society of Public Accountants

December 2008

Inside this issue:

President's Note	1
Chapter Meeting	1
PA Hybrid Car Rebate	1
Partnership Debt	2
Leaseholds and Personal Property	2
Transaction of Interest	2
Depreciation	
Partnership - preferred stock	3
Cost-of-living adjustments	3
Health Plans - Insurance	3
Unclaimed Property	3
Like-kind Exchange	3
Tax-exempt Bonds	3
LIFO/SILO	3
Gear-up Seminars	4
Meetings	4



E-Mail & Address Changes

Don't miss out on important information regarding upcoming seminars and chapter meetings because you didn't let us know of an email or address change. Notify us of any changes via email at: **info@pspabuxmont.org**



FREE SEMINAR DRAWING

Congratulations!

TBA

The winner of a free one day seminar of their choice at the drawing held at the **November** business meeting. The Buxmont Chapter holds a drawing for a free seminar at the conclusion of every business meeting.

PRESIDENT'S NOTE

Dear Fellow Buxmont Members,

This year seemed to have evaporated as fast as my 401K. But you have to stay focused on things you can control.

Focus on market buying opportunities. Focus on your CPE. Focus on being prepared for tax season. And focus on a great holiday with family and friends.

The Buxmont Officers and Board wish you and your family a Merry Christmas and a Happy Hanukkah.

Sincerely,
Frank Corso
President Buxmont Chapter

Members are invited to a 5:15 p.m. holiday celebration with cocktails/hors d'oeuvres and a mystery entertainer.

DECEMBER MEETING

FRAUD

Next meeting is scheduled for Tuesday, December 16, 2008

Speaker: Martin Moran
PNC Bank

Place: Williamson's Restaurant
Willow Grove, PA

Meeting: 7:00-9:00 PM

Dinner: 6:00—7:00 PM

Must pre-register for dinner reservation.

Please complete and mail the registration form with payment.

Deadline for registration is Wednesday, December 10 2008

"Meeting Only" Registrants at the door will be subject to a \$5.00 surcharge.

REMEMBER, IT IS YOUR RESPONSIBILITY TO CONFIRM THE CHAPTER HAS YOUR RESERVATION

To review the registration list, go to: www.buxmontpspa.eboard.com and look at registrants under the meeting tab.

PA Hybrid Car Rebate

Rebates will be provided only for purchasing the cleanest and most fuel-efficient hybrid vehicles. In order to qualify, the total city and highway miles per gallon ratings as measured by the U.S. Environmental Protection Agency must meet or exceed 55 mpg. The hybrid vehicle must also have a carbon footprint of less than 7.0-tons-per-year of carbon dioxide as accounted by

<http://www.fueleconomy.gov>.

The Department of Environmental Protection maintains a list of eligible vehicles that is updated monthly at <http://www.depweb.state.pa.us>, keyword: Hybrid Vehicle Rebates. Phone 866-294-3854 or 717-214-3492.

To claim the Hybrid Electric Vehicle Rebate, vehicle purchasers must submit a completed form no later than six months after their purchase to: Department of Environmental Protection, HEV Rebate Program, and P.O. Box 8772, Harrisburg, PA 17105-8772.

Welcome New Members



Thomas Meehan, CPA
Highbridge NJ

Exchanging Partnership Debt for Partnership Equity Proposed Regulations under Code Section 108

[TD 9428](#) Determining the Amount of Income from Debt Cancellation Proposed Treasury regulations issued on October 30, 2008 provide answers to some of the questions left unanswered by the 2004 Act. First, the regulations provide that when certain requirements are satisfied, the fair market value of the partnership interest transferred in exchange for debt is the "liquidation value" of the partnership interest. For this purpose, the liquidation value is the amount of cash the creditor would receive with respect to the newly received partnership interest if the partnership sold all of its assets (including goodwill, going concern value, and any other intangibles associated with the partnership's operations) for cash equal to the fair market value of those assets and then liquidated. This rule only applies, however, if (i) the partnership maintains capital accounts in accordance with the rules set forth in the applicable Treasury regulations; (ii) the creditor, the partnership and its partners treat the fair market value of the partnership interest as equal to the liquidation value for purposes of determining the tax consequences of the exchange; (iii) the debt for equity exchange is an arm's length transaction and (iv) subsequent to the debt-for-equity exchange, neither the partnership nor any related person purchases the partnership interest as part of a plan that has as a principal purpose the avoidance of income from debt cancellation by the partnership. If any of these requirements is not satisfied, all relevant facts and circumstances will be considered in determining the fair market value of the partnership interest. It should be noted that, depending on the facts, a more favorable tax result may be obtainable by electing to use the "all facts and circumstances" test.

Tax Treatment to the Creditor of the Exchange The Treasury regulations provide that the exchange by a creditor of partnership debt for an equity interest of the partnership is a tax-free exchange in which no gain or loss is recognized. Instead, the creditor's tax basis (and holding period) in the debt becomes the tax basis (and holding period) of the partnership interest. This rule does not apply, however, to partnership equity that is used to satisfy unpaid rent, royalties or interest on indebtedness (including accrued original issue discount). The IRS has stated that the rule similarly does not apply to the disposition of an installment sale obligation. Note that where the creditor's tax basis in the debt exceeds its value, this rule has the disadvantage of resulting in a deferral of the loss and, in

some cases, a change in character from ordinary to capital.

Effective Date; Unanswered Questions These new Treasury regulations are only proposed and are not effective unless and until finalized. These rules could change in response to public comments. In particular, the IRS has asked for comments on a number of issues not addressed in the proposed Treasury regulations, including: whether any special allocation rules should apply to the allocation of income from cancellation of debt where the debt was owed to a preexisting partner; how the income from debt cancellation should be treated for purposes of certain technical rules concerning "minimum gain chargeback" and whether and how these rules should apply in the case of convertible debt.

Leaseholds and Personal Property

[PLR 200842019](#) The transaction involved the exchange of leases, leasehold improvements and office equipment and furnishings. The taxpayer leased a portion of a building which grew too small for its needs and its co-tenant fellow lessee wished to take over the taxpayer's space. The real estate replacement property would be a qualifying lease of a new building to be constructed together with leasehold improvements to be paid for by the business entity which will be expanding into the taxpayer's existing relinquished property space. Of course, the taxpayer would also acquire like class personal property to replace the office furniture and equipment it was relinquishing. The proposed exchange would have a qualified intermediary ("QI") transfer the taxpayer's existing lease to the existing building's co-tenant in exchange for the QI transfer of the new lease on the replacement property to the taxpayer. In addition, an exchange of the tangible personal property would be accomplished as well.

The taxpayer wished to determine by this ruling request whether:

- the leaseholds and personal property are like kind;
- the build-to-suit construction affects the application of §1031 with respect to the 45-day letter; and
- how basis and boot in the replacement properties acquired are determined and characterized.

The Service ruled that the exchange of leaseholds qualified as like-kind under Treas. Reg. §1.1031(a)-1(c). The fact that the leases might vary in their terms or value relate only to the grade or quality of the leases and not to its kind or class. There was no comment about whether the leaseholds had to be for similar types of leaseholds.

Transaction of Interest –Potential for Avoidance of Tax Through Sale of Charitable Remainder Trust Interests

[Notice 2008-99](#) The Internal Revenue Service and the Treasury Department are aware of a type of transaction, described below, in which a sale or other disposition of all interests in a charitable remainder trust (subsequent to the contribution of appreciated assets to and their reinvestment by the trust), results in the grantor or other non-charitable recipient receiving the value of that person's trust interest while claiming to recognize little or no taxable gain. The IRS and Treasury Department believe this transaction has the potential for tax avoidance or evasion, but lack enough information to determine whether the transaction should be identified specifically as a tax avoidance transaction. This notice identifies this transaction and substantially similar transactions as transactions of interest for purposes of § 1.6011-4(b)(6) of the Income Tax Regulations and §§ 6111 and 6112 of the Internal Revenue Code. This notice also alerts persons

involved in these transactions to certain responsibilities that may arise from their involvement.

Partnership - preferred stock.

[Revenue Procedure 2008-64](#). Section 301 of the Emergency Economic Stabilization Act of 2008 treats as ordinary income or loss certain gain or loss from the sale or exchange by any applicable financial institution of applicable preferred stock in Fannie Mae or Freddie Mac. This revenue procedure provides guidance primarily for transactions in which the applicable financial institution is a partner in a partnership which held the applicable preferred stock.

Cost-of-living adjustments

[Notice 2008-102](#) sets forth certain cost-of-living adjustments effective January 1, 2009, applicable to the dollar limitations on benefits and contributions under qualified retirement plans. Other limitations applicable to deferred compensation plans are also affected by these adjustments. This notice also contains cost-of-living adjustments for several pension-related amounts in restating the data in IR-2008-118 issued October 16, 2008.

Group Health Plans and Health Insurance Issuers Under the Newborns' and Mothers' Health Protection Act.

[TD-9427](#) This document contains final rules for group health plans and health insurance issuers concerning hospital lengths of stay for mothers and newborns following childbirth, pursuant to the Newborns' and Mothers' Health Protection Act of 1996 and the Taxpayer Relief Act of 1997. Effective Date: These final regulations are effective December 19, 2008.

Like-kind Exchange

The IRS privately ruled that taxpayer's leasehold interest in an old office is of like-kind to its replacement leasehold interest in a new office. Furthermore, the office equipment at the old office is of like-kind to the office equipment at the new office. The exchange will qualify for non-recognition of gain or loss under IRC Sec. 1031 even though the owner of the replacement property is, at taxpayer's direction, constructing improvements to the replacement property at the time the property is identified as replacement property. The basis of property received in the exchange will be determined property-by-property by first ascertaining the basis of each property transferred, and adjusting the basis of each property received as provided by Reg. 1.1031(j)-1(c). Ltr. Rul. 200842019.

Tax-exempt Bonds

While interest on state and local governmental bonds is excludable from income, interest on private activity bonds is not excludable from

income. IRC Sec. 141(a) defines private activity bonds as part of an issue that meets a *private business use test* and the *private security or payment test* under IRC Sec. 141(b). Final amendments to Regs. 1.141-4 and 1.141-15 (found in TD 9429) modify the standards for treating certain payments in lieu of taxes or other tax equivalency payments (PILOTs) as generally applicable taxes for purposes of the private security or payment test. In response to public comments, the final regulations provide transitional rules for bond refunding and for bonds for projects substantially in progress when the prior proposed regulations were promulgated.

LILO/SILO Settlement Status

The IRS announced that more than 2/3 of corporations that received a Lease-in/Lease-out (LILO) or Sale-in/Lease-out (SILO) settlement offer have accepted the offer. The IRS added that "LILOs and SILOs involve complex arrangements in which some of the nation's largest corporations purportedly leased or purchased large assets, such as foreign rail systems or sewer systems, and immediately leased them back to their original owners. Under these arrangements, corporate taxpayers put off recognition of current income for tax purposes for many years." News Release IR-2008-121.

Where's My Stimulus Payment?

Taxpayers without Internet access should call 1-866-234-2942
News Release IR-2008-123.

Pennsylvania

Unclaimed Property: "Neglectful" Owners May Not Recover Interest

Under Pennsylvania unclaimed property law and the state's constitution, owners of presumptively abandoned property had no claim to interest earned while the abandoned property was held in perpetual temporary custody of the state, according to the Pennsylvania Supreme Court. A majority of the court affirmed dismissal of a class action. The constitutional claim failed because the unclaimed property law procedures did not result from an overt taking by the state but were triggered by the neglect of the owner, the court said. In the view of the majority, it "strained] common sense" to suggest that the state was obligated to pay interest to a negligent owner who presumably had ignored the property for several years. The "conceit present" in that theory was that the negligent owner was entitled to interest despite the lack of an indication that the interest would have been earned if the negligent owner had possession of the property during the relevant time. As an example, the majority asked "if the property had been an abandoned suitcase of cash, why should the owner receive interest earned through the [unclaimed property law] system, when that cash would not have earned any interest sitting in the suitcase?"

Buxmont Chapter Officers, Committees and Directors

President

Frank L. Corso, CPA
215-632-3064

First Vice President

Barbara M. Thomas, CPA
215-579-6250

Second Vice President

Clare M. Shaw, CPA
215-860-1199

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610-489-6644

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Web Site

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**Buxmont Chapter
PA Society of
Public
Accountants**

**2418 Bristol Road
Bensalem, PA 19020**

Phone: 215-757-5555

Fax: 215-757-5777

E-mail Address:

info@PSPABuxmont.org



**"Registration forms for
all seminars
can be printed
directly from our web
page"**

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Editor

Gita Faust
Phone: 215-579-1465
Fax: 888-390-6542

Associate Editor

Irving Braunstein, EA
Phone: 215-757-5555
Fax: 215-757-5777

Chapter Profile

The Buxmont Chapter is the PA Society of Public Accountants' largest chapter, representing over four hundred Certified Public Accountants, Public Accountants, Enrolled Agents and tax practitioners in the Bucks and Montgomery Counties of Southeastern PA. If you are a small practitioner in search of an organization interested in your needs, you'll want to consider the Pennsylvania Society of Public Accountants.

Chapter Meetings

Meetings are generally held on the fourth Tuesday of the month at Williamson's Restaurant, Route 611 & Blair Mill Rd, in Willow Grove, PA (unless otherwise noted)

Dinner & Meeting:(2 Hr.)	Member \$25.00	Non-member: \$49.00
Dinner & Meeting:(4 Hr.)	Member \$35.00	Non-member: \$59.00
Meeting Only: (2 Hr.)	Member \$15.00	Non-member: \$39.00
Meeting Only: (4 Hr.)	Member \$25.00	Non-member: \$49.00

2008 Gear-UP Seminar Programs

Seminars are held at the Radisson Hotel located at 2400 Old Lincoln Highway, Trevose, PA (1/4 mile south of PA Turnpike Interchange 351)

- ◆ 1040—16 CPE Hours Tax
Thursday & Friday, December 4 & 5, 2008



2008 Chapter Program Schedule

- ◆ Fraud - 2 HR CPE A&A
Martin Moran, PNC Bank
Tuesday, December 16, 2008
- ◆ Federal Reserve - 2 HR CPE Tax
Herb Taylor
Tuesday, January 27, 2009