

# Arkansas Public Accountant

*A Publication of the Arkansas Society of Public Accountants*



September 2004

## • FROM YOUR

## PRESIDENT'S PEN •



Dear Members:

It has truly been an honor to serve you this year as President of the Arkansas Society of Public Accountants. I am happy to report that our society is alive and well. This past year, ASPA has developed several programs that have been successful in attracting new members. We have continued to partner with Gear Up to provide you with the best in quality CPE. We continue to work with the National Society of Accountants,

and other state and local organizations in support of our members and profession. In addition, internal procedures are being improved to allow our society to function with greater effectiveness now and for the future.

This year began with certain challenges for us as accountants and tax preparers. The first being the proposed legislation of charging sales tax for professional services. The Arkansas legislature went into special session with the goal to raise money to pay for education. As you know, there were several bills that assessed sales tax for our services and none of them came out of committee. Primarily because the lawmakers spent so much time dealing with the education concerns of the State. ASPA was there monitoring the actions of the legislature and contacting the necessary lawmakers and voicing our opposition to the bills. You can bet this issue is not over and will undoubtedly raise its head again next session.

Another challenge which continues to affect our profession is the fallout caused by the demise of Enron and Worldcom. The AICPA has been busily developing new policies and procedures to combat the resulting public relations fiasco with seemingly only the large accounting firms in mind. Little thought, if any, has been given to what effect these policies or requirements

## Topics Covered in this Newsletter

**NET OPERATING LOSS (NOL)  
HELPFUL HINTS**

**NEW NOTICES WEBSITE**

**IRS REVIEWING PERSONAL  
SERVICE CORPORATION TAX  
COMPUTATIONS**

**TAX QUOTES**

have on small firms like yours and mine. One of the great benefits of belonging to ASPA and NSA is that these organizations represent you, the small practitioner. One of our main purposes for being is to protect your right to practice.

We will continue to face challenges again this year. We could have more tax legislation dealing with the recession and also being a Presidential election year. The Internal Revenue Service has stated that it is concentrating on collections which will put more stress on us in dealing with the client and all the related issues. As I alluded to earlier, sales tax for professional services will be back on the table. Improvements to public relations for our profession will need to be strengthened so that the public perceives our profession with the respect we once had.

I look forward to seeing you at the Annual Convention at the Holiday Inn Select in Little Rock on September 20-22. A representative from Arkansas State Sales and Use Tax is schedule to speak to us the morning of the Sept. 20th on issues related to the new sales taxes that went into effect on July 1, 2004. You will not want to miss this important topic for your clients. Our societies Business Session will take place that afternoon where we will be voting on officers and new name for our organization. So please make plans to attend. Speakers from Gear Up will talk the next two days on the various Business Entities. So between those three days, you can receive up to 20 hours of CPE.

In closing, I would like to thank you again for allowing me to serve you. I have had the privilege of getting to know many of you during this past year. I hope that you have got to know me a little better as I

have shared some experiences through this monthly letter. I have appreciated the phone calls, emails, and all the words of advice and encouragement. I hope that each of you continues to support our society and I wish you success in all that you do.

Sincerely,  
Brian L. Thompson, CPA  
ASPA President

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**Tax Information from the IRS  
September 2004  
Provided by SB/SE Taxpayer  
Education and Communication  
Little Rock, AR**

Net Operating Loss (NOL) Helpful Hints

Tax practitioners can speed up the processing of net operating losses (NOLs) by avoiding some common errors. Individuals, estates and trusts may have an NOL if deductions exceed income for the year. Taxpayers can use an NOL by deducting it from income in another year or years. If you carry back your NOL, you can use Form 1045, Application for Tentative Refund or Form 1040X, Amended U.S. Individual Income Tax Return. Form 1045 is an application for a quick refund, resulting from a tentative adjustment of tax in a carry back year. Generally Form 1045 must be filed after the NOL year tax return was filed, but not later than one year after the end of the NOL year. Any claim filed more than one year must be filed on Form 1040X, or an amended Form 1041, U.S

Income Tax Return for Estates and Trusts. Here are some common errors that resulted in an NOL rejection during processing:

**Error:** *Failure to provide documentation to support the NOL calculation.*

**Solution:** Review the checklist of “What to Attach” in the Form 1045 instructions. Be sure to include all forms or schedules for items refigured in the carry back year. Also, provide a copy of any examination reports if the IRS has previously audited the return.

**Error:** *Failure to separate all items shown on the return and tax account when an allocation is required because of a change in filing status or marital status.*

**Solution:** Attach a complete break-down of each spouse’s income; a detailed capital gain calculation; deductions; exemptions; taxable income; credits; other taxes, including separate Forms 6251, Alternative Minimum Tax; federal tax withheld; payments; offsets; and refunds. For information about figuring the NOL carry backs and carry overs for married people whose filing status changes for any tax year involved in figuring an NOL carry back or carry over, see Publication 536, Net Operating Losses (NOLs) for Individuals, Estates and Trusts.

**Error:** *Incorrect “before carry back” figures on Form 1045 or Form 10040X.*

**Solution:** “Before carry back” figures are the amounts from the original filed return. If there have been any adjustments made to the original tax return amounts, either by the taxpayer or the IRS, use personal records or order an IRS transcript of the tax account. To order a transcript, call (800) 829-1040 for Form 1040, U.S. Individual Income Tax Return, or call (800) 829-4933 for business returns, or file Form 4506-T, Request for Transcript of Tax Return at [www.irs.gov/pub/irs-](http://www.irs.gov/pub/irs-)

**Error:** *Incorrect use of Table 1, Worksheet for NOL Carry over From 2003 to 2004 (For an NOL Year Before 2003) in Publication 536 instead of Form 1045, Schedule B, NOL Carry over, to compute absorbed carry back.*

**Solution:** Calculate the total NOL absorbed in each carry back year using Form 1045, Schedule B. Taxpayer should not use the carry forward worksheet shown in Publication 536 to calculate the absorbed NOL for carry back claims. The worksheet is used to figure

the amount of an NOL from a prior year still remaining after applying it to the current year.

**Error:** *Missing NOL and alternative tax net operating loss (ATNOL) calculations.*

**Solution:** For NOL calculations attach Form 1045, Schedule A NOL. For ATNOL calculations attach the calculation and a Form 6251, Alternative Minimum Tax. If taxpayer did not file a Form 6251, with the loss year and/or carry over years' returns, IRS must have a copy of completed Forms 6251 to determine the total adjustments and preferences for the ATNOL deductions.

**Error:** *Incorrect NOL and ATNOL calculations.*

**Solution:** The NOL calculations on Form 1045, Schedule A and ATNOL calculations must include all non-business and business capital gains and losses equal to the net capital gains or losses from Form 1040, Schedule D Capital Gains and Losses.

**Error:** *Recalculating charitable contributions based on an NOL carry back.*

**Solution:** The charitable contributions

for Form 1040 Schedule A, Itemized Deductions, are not changed by an NOL carry back. Only carry forward losses (where the loss year occurred before the carry over year) will affect the adjusted gross income for computing the percentages for allowable contributions.

**Error:** *Election to waive carry back period filed late.*

**Solution:** To make the election to carry an NOL and ATNOL forward without first carrying it back, the election must have been made with the original loss year return, or filed with a Form 1040X within six months of the original due date (excluding extensions) of the loss year return. If the election was not timely made, the NOL must be carried back before being carried forward. Remember to attach a copy of the timely election to the return where the NOL is carried forward.

**Error:** *Failure to provide a breakdown of how each NOL changed the tax figures when combining multiple years' NOL carry backs on the same 1040X.*

**Solution:** If you are carrying over more than one NOL, apply each one separately, starting with the earliest one to determine

your NOL deduction. Attach a copy of each separate computation to your 1040X.

**Error:** *Combining changes to other income/deductions on a prior year that are not related to an NOL carry back adjustment.*

**Solution:** NOLs have different processing dates and statutory requirements than regular tax changes. Therefore, non NOL adjustments must be made on a separate amended return.

*For additional information on net operating losses, see Publication 536, form 1045 and instructions. Forms and publications are available by download from the IRS Web site, or by calling toll-free 1-800-TAX-FORM (1-800-829-3676).*

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### **New Notices Website**

Taxpayer representatives will now be able to view the core message of sample IRS notices on an easy to navigate website that is now available. This notice website was created to assist payroll representatives and practitioners who receive taxpayer inquiries about IRS notices to easily view samples of the text in the notices without waiting to see hard copies. Since tax professionals will be the primary users of this tool, the site is located on the Tax Professionals page of the IRS website at <http://www.irs.gov/individuals/article/0,,id=96199,00.html>. This may be a

site to add as a Favorite for quick reference.

One of the goals for having the notice information available electronically is to more quickly resolve account issues between the taxpayer, the tax professional and the IRS. Since the sample text of the notice can be viewed on-line while taxpayers and their representatives discuss it on the phone, communication could be greatly improved. After reading the content of the notice, the representative may be able to resolve the issue by working directly with IRS and require less taxpayer involvement, thereby reducing time.

### **IRS Reviewing Personal Service Corporation Tax Computations**

The Internal Revenue Service recently began contacting corporations that do not appear to have used the applicable personal service corporation tax rate in computing their 2002 and 2003 tax liability. The taxable income of “qualified personal service corporations” is subject to a flat rate of 35 percent instead of the graduated rates available to most corporations.

A corporation is a qualified personal service corporation if it meets both of the following tests:

- 1) Substantially all of the corporation’s activities involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting, and
- 2) At least 95% of the corporations stock is owned by employees performing services for the corporation, retired employees, the estates of employees, or other persons acquiring stock in the corporation

by reason of the death of employees.

Personal service corporations that receive a letter and Revenue Agent Report will have 30 days to either agree or disagree with the proposed tax increase. The tax increase will be the difference between the flat 35 percent rate and the tax shown on the original return.

Taxpayers who do not agree may appeal the determination by providing a written statement that they do not agree, the reasons for the disagreement, and the law or other authority that supports their position. Detailed guidance on the examination process and appeal rights is included with the letter.

If you need additional information related to the above topics, please contact the local Taxpayer Education and Communication office at 5001-324-5328 ext. 276.

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**DUES ARE DUE**

**PLEASE PAY  
PROMPTLY**

**THANK YOU**

## TAX QUOTES

“Taxes are what we pay for civilized society.” Oliver Wendall Holmes, Jr.

“The power of taxing people and their property is essential to the very existence of government.” James Madison, U.S. President

“People who complain about taxes can be divided into two classes: men and women.” Author unknown

“Income tax has made more liars out of the American people than golf.” Will Rogers

“Few of us ever test our powers of deduction, except when filing out an income tax form.” Laurence J. Peter, author.

“The hardest thing in the world to understand is the income tax.” Albert Einstein

“Taxation with representation ain’t so hot either.” Gerald Barzan, humorist.

“Where there is an income tax, the just man will pay more and the unjust less on the same amount of income.” Plato

“To tax and to please, no more than to love and be wise, is not given to men.” Edmund Burke, British statesman.





**APPLICATION FOR MEMBERSHIP IN**  
**THE ARKANSAS SOCIETY OF**  
**PUBLIC ACCOUNTANTS**

P.O. Box 725  
Newport, Arkansas 72112  
longaspa@cox-internet.com  
www.arspa.org

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Last Name                      First Name                      Middle Initial                      Business Phone                      Home Phone

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Business Address \_\_\_\_\_

How many years of accounting have you had? \_\_\_\_\_ Date of Birth \_\_\_\_\_

Sole Practitioner [        ]        Partner [        ]        Employee [        ]        Corporate Officer [        ]

Name of Firm \_\_\_\_\_ Number of Employees \_\_\_\_\_

Name of Partner(s) \_\_\_\_\_

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Are you a Licensed, Registered or Certified Public Accountant? \_\_\_\_\_ If yes, give License# \_\_\_\_\_

Are you an Accredited Public Accountant? \_\_\_\_\_ If yes, give Accreditation # \_\_\_\_\_

Are you an Enrolled Agent \_\_\_\_\_ If yes, give EA # \_\_\_\_\_

Do you hold an Associate or Baccalaureate degree with a minimum of 24 semester hours in Accounting? Yes \_\_\_\_\_ No \_\_\_\_\_

Are you engaged in any other trade or profession? \_\_\_\_\_ If yes, please describe \_\_\_\_\_

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Please list other accounting organizations in which you hold membership: \_\_\_\_\_

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I hereby state that the accompanying statements are correct to the best of my knowledge and belief. I further state that I will abide by the Constitution and By-Laws of the Society and will practice in strict conformity with the Code of Ethics and Rules of Professional conduct adopted by the Society.

Date \_\_\_\_\_ Signature of applicant \_\_\_\_\_

Annual dues are payable IN FULL in advance and are prorated for credit by ASPA on a monthly basis to August 31 - the end of ASPA's fiscal year.

[    ] Membership Annual Dues \$85.00        [    ] Firm Annual Membership \$50.00        [    ] Diamond State Annual Dues \$15.00  
(Non-Residents only)

Do Not Write Below This Line

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State Member Approving Membership

Signature \_\_\_\_\_

Title

Date

Sponsor, If Any

FOR ASPA OFFICE USE ONLY

Amount

Date Received

Control Number

\*State Society dues payments may be deductible as an ordinary and necessary business expense. However, they are not deductible as charitable contributions for Federal income tax purposes.

## **OFFICERS & GOVERNORS**

**Brian Thompson.....President**

**Tom Simmons .....President Elect**

**Bryan Johnston ... 1st Vice President**

**Ronny Woods ..... 2nd Vice President**

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**Donna Gowan .. Governor District II**

**Lonnie Taylor.. Governor District III**

**Alma Strozyk... Governor District IV**

**Bradley S. Crain Governor District V**

**Tom E. SimmonsGovernor District VI**

## **FOR YOUR INFORMATION**

The ARKANSAS PUBLIC ACCOUNTANT is the monthly publication of the ARKANSAS SOCIETY OF PUBLIC ACCOUNTANTS. We are a professional organization dedicated to the promotion of accountants and tax preparers in the State of Arkansas. We accept newsworthy articles and advertising. If you have either of these for publication, please contact the editor.

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