SMF

TOTAL CLIENT FOCUS

A quarterly newsletter by Sax Macy Fromm & Co., PC 3rd Quarter 2004

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Give Us Your Opinion
Your input is a valuable resource that can help increase the value of this newsletter to you and your organization. We would like to hear from you. If you have an issue or question that you feel should be addressed in a future edition, please contact Nicholas Veliky at nveliky@smf-cpa.com or (973) 472-6250 x227.

It's Important To Be Educated

Significant portions of the investment industry thrive on an investor's lack of knowledge. We believe there are some products that would rarely be purchased if investors were made aware of their many disadvantages under most circumstances. Likewise, many trades would likely not be made if clients understood the true benefits of a buy-and-hold strategy. We have found that advisors who place their clients' best interests as their top priority prefer clients who are highly educated about essential investment concepts and market functionalities. These professionals understand that the more educated the client, the more likely both the advisor and investor will thrive. In this article, we discuss the importance of investor education as well as the basic concepts that every investor should seek to possess.

The Importance of Education

From our introduction to a client prospect and throughout our ongoing client relationships, it is our desire and intent to educate clients about how capital markets work and to provide them with essential information critical to their financial well-being. We recognize that our advice is often significantly different from

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Board Members Fiduciary Responsibility

You sit on the Board of Directors of one of your communities not for profit organizations. You attend meetings and support the group financially. You are proud of the part you play in promoting the mission of the organization and the work you do to help make the group a success. You might think your responsibility ends there, well it goes deeper.

Before we can proceed we need to understand what the Board of Directors is and its purpose. Every not for profit organization is required by law to have a Board of Directors. The Board is responsible to the owners of the non-profit organization, the Community. A Board's authority is collective. The President / Chairman is elected by the Board and acts as spokesperson for the Board. State laws define in detail the legal obligations of board members. In 1996 the "Taxpayer Bill of Rights" created additional penalties for conflict of interest transactions involving directors of non-profit organizations.

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Overcoming Succession Planning Obstacles

In the event of sudden death severe injury or illness real estate developers and owners who lack succession plans inadvertently put both their companies and employees at risk. Yet despite this danger, many developers put off creating and implementing a plan for a variety of reasons.

Understand your role

One common obstacle is misunderstanding. Many business owners view developing a succession plan as primarily a legal issue tied to facilitating an ownership transition in the event of his or her sudden demise or disability. Yet equally important is preparing for a systematic executive management transition

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Wealth Management It's Important To Be Educated

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the advice of most investment advisory firms and also is different from the strategy followed by most individual investors. Therefore, we understand how important it is to share with clients the academic research that leads us to believe markets are generally highly efficient. We also share the data that indicates that it is highly unlikely investors will be able to exploit any inefficiency that may exist after taking into consideration all the expenses of the effort. While clients should be shown at the beginning of a relationship how a well-diversified portfolio can help manage risk, that lesson will often need to be repeated as asset classes come in and out of favor over time. Another lesson we stress is our belief that attempts to time the market, either in terms of individual securities or asset classes, typically lead to investors realizing lower returns than those available from a buy, hold, and rebalance strategy.

Because our investment approach differentiates us from the average investment advisor, it is crucial that our clients understand why we recommend it. Without such understanding, a client may become tempted to abandon his or her diversified portfolio during periods such as the late 1990s, when growth so outperformed value that it became tempting to pour all of one's investments into that single asset class. Put simply, knowledge is the key to discipline. The same holds true during periods like the last three years when value outperformed growth. Clients who do not possess a basic understanding of investing are more likely to quickly become dissatisfied when their portfolio underperforms the latest hot asset class.

Essential Investment Education

What is the minimum basic knowledge needed to remain a disciplined investor? We believe the following key concepts form a strong foundation from which to build.

1. **Markets are efficient.** Public information is of little fundamental value. New information is so quickly incorporated into asset prices that use of this knowledge cannot be expected to consistently yield superior risk-adjusted returns. Information that is not public is also of no value, in that it is illegal to trade on.

2. **Risk and expected reward are related.** Investors who expect or need to achieve higher returns must accept the associated risk. Except for the benefits that can be had by diversification, there is no "free lunch" when it comes to investing. Restated, equity-like returns do not come without commensurate risks.

3. **Diversification works.** Global diversification across a variety of imperfectly correlated asset classes is the most effective way to reduce risk. (Correlation is how similarly different investments perform. The higher the correlation, the more similar the performance and thus the lower the diversification.) Diversification is always working… whether or not we're pleased with the immediate results. For example, there have been times such as the late 1990s when it was tempting to abandon diversification as large-cap growth significantly ran ahead of the pack. However, diversification should be thought of as the equivalent of buying insurance against having all of one's investment eggs in the wrong basket. From 2000 through 2002, those who had placed all of their eggs in the large-cap growth basket learned a painful lesson about the value of diversification.

4. **Markets are unpredictable in the short run and even in the long run.** In the long run, we expect that equity markets will rise more often than fall. However, we must all understand that in the short or even long run, anything is possible. Individuals who correctly predict short-term market movements would do well to attribute their results to luck rather than skill.

5. **Discipline is key to successful investing.** For far too many investors, the variable that ultimately determines the results of their portfolio is not the return on their investments, but is instead their behavior. Emotions can lead investors to make poor decisions at just the wrong times. It is easy to remain disciplined during bull markets. However, it is far more important to do so in bear markets to avoid the far-too-human propensity to sell at market bottoms. Thus the role that emotion plays in the success of an investment strategy cannot be overemphasized. Education is key to ignoring one's emotional reactions and staying the course.

We believe that investors who understand the above basic concepts will be well ahead of the majority of the investing public. They will have a basic understanding of why we warn against holding individual stocks or timing the market, and why we instead place so much importance on evaluating risk tolerance, building a globally diversified portfolio, and implementing regular, disciplined rebalancing techniques. ■

For more information on wealth management contact *Michael Shenker* at mshenker@smf-cpa.com.

Board Members Fiduciary Responsibility

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Officers and directors of non-stock, non-profit corporations will have no liability for acts of the corporation if they are uncompensated; however, this charitable immunity does not limit liability for: willful misconduct, knowing of violation of criminal law, liability derived from operation of a motor vehicle, and VIOLATION OF A FIDUCIARY DUTY.

A **Fiduciary** is one that stands in a special relation of trust, confidence, or responsibility in obligations to others. Board members stand in a fiduciary relationship to the organization, clients, members of the organization, and the community. This fiduciary responsibility includes governance of the organization and stewardship of its assets. It also includes establishment and adherence to an Investment Policy and it regulates the acceptance of gifts, asset maintenance / preservation, contract approval, incurrence of indebtedness, and other financial matters.

Boards of Directors are expected to operate in good faith and with the best interests of an organization in mind. Members of the Board are judged according to what a reasonably prudent person would do in comparable circumstances. Directors of charitable organizations may be held to a higher standard, because they are Trustees. A Trustee is one who holds legal title to property, but other people have the right to benefit from that property.

Effective Board members should be knowledgeable regarding the operations of the organization and be regularly involved in board activities and ultimately develop a trusting relationship with the organization.

In order to be effective Board members need to attend board meetings frequently and make reasonable inquiries into the day-to-day operation and management of the not-for-profit. Participation in making decisions is an effective way of fulfilling your responsibility as a member of the Board. Board members should ensure the selection of qualified and responsible management and staff. When attending Board meetings, Board members should be prepared and understand the issues to be discussed. Taking an active role by being involved in policy making as to investments, gift acceptance, asset maintenance / preservation, contract approvals, incurrence of indebtedness, and all other financial matters is necessary when acting responsibly as a member of the Board.

Board members are responsible for the development and adherence to a budget. They need to have a clear understanding of the sources of public support and revenues and their uses (expenses). A review of budgets and financial statements is essential in order to understand the relationship of the budget to actual financial picture. Most important is the Board members right to ASK QUESTIONS. If you aren't sure or don't quite understand ask, you are probably not alone.

Other ways to be an effective Board member are to pay special attention when it is time to approve the auditor and the scope of the audit. Be sure to review all independent audit reports and make sure that ALL recommendations of the audit are acted upon. Pay close attention to the insurance coverage, make sure all assets and activities are covered by adequate insurance.

The actions of the Board must be clearly stated in the minutes of the meetings. The minutes must reflect the boards actions and be properly approved. The Board should vote on motions and each vote should be recorded. If there are votes cast as "not agreeing" then it is important that the minutes reflect the votes cast against a motion. Board members need to ensure that the Organization is appropriately represented by legal counsel. Finally there is the issue of reviewing internal controls in order to safeguard the assets of the organization.

Officers and directors of nonprofit organizations continue to be named as defendants in lawsuits for acts of their organizations. Although immunities have been provided by statute, officers and directors are encouraged to pay special attention to the authority granted them by the organization and not deviate from it without the permission required by the organizations operating documents.

Serving on the Board of a not-for-profit organization is a wonderful way of giving back to the community. By taking your fiduciary responsibility seriously both you and the organization will avoid the exposure to unforeseen liability. They benefit from your contribution of time and expertise, and you will help further the success and growth of your chosen philanthropic endeavor. ■

For more information on not-for-profit industry trends contact *Allan Wolf* at awolf@smf-cpa.com.

Real Estate

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when an owner is ready to retire. And here's where emotions may come into play because a succession plan may threaten a business owner's strong desire to stay involved in the organization.

In response, he or she may postpone creating a plan, often leaving a trusted business advisor (such as an attorney or accountant) to move the process forward in the interests of the owner's family, management team, and employees. Yet, as previously mentioned, neglecting this critical task jeopardizes the entire organization should he or she suddenly die, suffer serious injury, or fall ill. Plus, a succession plan can foster a gradual transition to retirement, lessening the stress of departure.

Editor: Nicholas Veliky

Total Client Focus is published by Sax Macy Fromm & Co., PC, a firm that offers middle-market companies and high net worth individuals accounting and auditing services, business and tax consulting, and wealth management.

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Overcoming Succession Planning Obstacles

Finally, many owners immensely enjoy playing the part of their companies' "face" in the community. And as time goes on, the rest of the organization typically acquiesces this role to the owner, creating immense risk by placing most of the community-business development action "in one basket." An effective succession plan will ensure that other managers also accept this role, protecting the organization if its "face" suddenly disappears or simply retires.

Motivate your managers

Another typical succession planning obstacle is failing to build broad-based management depth. Obviously, you can't build this depth overnight. Many business owners grow impatient trying to find, hire, and retain qualified leaders to carry on their legacy.

That's why motivating senior management to stay with the owner and take part in the planning process is an important element to any succession plan. Start by forming a strategic planning team whose purpose includes creating and updating a succession plan. (For more on this, see "Strategic planning begets succession planning" at left.)

You may also need to offer some type of ownership opportunity (or ownership-like, such as phantom stock) without immediately surrendering control. So establish a long-term development process for your chosen successor, working closely with him or her to introduce key internal and external aspects of the job. But remember, let your successor develop a management style that complements his or her personality, too.

Give yourself options

Ultimately, real estate organization developers and owners who fail to develop and implement succession plans will be left with fewer options if they befall an unexpected fate or want to exit the business. Don't let your organization fall prey to this all-too-common oversight. ■

Strategic Planning Begets Succession Planning

Developing a strategic business plan is an effective way to raise awareness of the need for a succession plan. In fact, the issue of succession planning often arises naturally during strategic planning sessions. After all, a strategic plan process provides a forum for owners to transfer their knowledge and intentions to their management teams. And those managers must, in turn, help create specific strategies to execute those intentions – even if the owner isn't present. So don't ignore succession planning's place in your long-term business strategy. Welcome it and use its presence to strengthen your real estate organization.

For more information on real estate industry trends contact *Stuart Berger* at sberger@smf-cpa.com.

Manufacturing/ Distribution

Redesigning Your Warehouse Without Bricks And Mortar

Have you ever needed an item from your warehouse and wondered why your cluttered garage at home – in which you can barely park the car for all those bicycles, kids' toys and lawn tools crammed into such a small space – actually seems more organized than what's in front of you? Warehouses or distribution centers play a critical role in the supply chain because they house the largest and most important asset to wholesale distributors: inventory.

A distribution center with an inefficient layout can be disastrous for a company. On the other hand, efficient distribution center layouts are vital to allowing distribution managers to reduce costs, increase inventory turns and improve customer service.

Every day, distribution managers are challenged to:

- Reduce costs and improve productivity
- Increase inventory turns and reduce inventory investment
- Improve inventory accuracy and customer service

At a typical distributor, more than 50 percent of distribution costs are labor related, which is why it's critical to focus on reducing costs and improving productivity. Studies also show that more than 60 percent of time is spent traveling and searching for inventory, so reducing this travel and search time could have a significant impact on lowering distribution costs. Believe it or not, more than 30 percent of warehouse expenses are spent traveling around the warehouse.

Managing your other inventory

Distributors actually manage two inventories – the merchandise held for resale and the usable space within their distribution centers. Warehouse space is just as precious a commodity as any other item in the warehouse. Like your merchandise inventory, warehouse locations, or slots, have different values and come in various shapes and sizes.

Just like inventory, warehouse space needs to yield a profit. Each bin or pallet location has an annual cost. What gross profit is derived from that location? What is the location's contribution to the bottom line? These questions need to be asked and answered.

Location location location

Think of your warehouse locations as parking spaces at a sports stadium. Those locations that are the most convenient tend to be the most desirable.

At the ballpark, the best location is the closest spot to the stadium that also allows a quick and easy exit afterward. Prime locations in the distribution center are defined as those closest to the entry and exit points (receiving and loading docks).

By matching the fastest moving merchandise with the most valuable locations, distribution managers will effectively cut the travel time required to put away and retrieve items that are received and shipped most often. On average, optimizing warehouse layout can reduce travel and search time by 40 percent.

Getting started

You will need several pieces of information to begin your warehouse redesign project:

- Use historical cost and labor data to set objectives for improving productivity and expense ratios.
- Draw a map of your existing warehouse layout, noting locations closest to receiving and shipping docks. Assign priority codes to each area based on proximity to entry and exit points.
- Gather information about the frequency purchase orders are received and how often each item is ordered. Develop meaningful averages (per day, per week, per month, etc.) and rank the items.

Once you have this data, start matching the items with locations that will provide the greatest convenience for your warehouse workers and therefore reduce travel time and costs. In other words, put those items that are received and shipped most into the highest priority locations and work your way through the list from fastest and closest to slowest and farthest.

Make the changes, monitor the results and review the layout periodically as your business grows. ■

For more information on manufacturing industry trends contact *Robert Hopper* at rhopper@smf-cpa.com.

Human Resources

Identity Theft: The Growing Liability for Employers

The statistics about the fastest growing crime in the country, identity theft, are alarming. The average identity theft victim will spend approximately 175 hours researching and tracking the crime, 23 months correcting credit reports, and $800 in out-of-pocket expenses to restore their financial standing. Most ID theft is low tech; the confidential information, which can be found on a Social Security card, driver's license, or birth certificate, is all a criminal needs to start using an identity. However, most business owners do not know that the number one source for victims' confidential information, according to a Trans Union report, is from employers.

An employer's personnel files are a goldmine for identity theft criminals. All it takes is an unscrupulous employee working in the accounting department, with access to employee information, to obtain names, addresses, Social Security numbers, copies of driver's licenses, and bank accounting information. This employee, during a short employment, could manage to send all of your employees' information to a "friend" outside of the company, who then sells that information. Before you know it, all of your employees have now become victims of identity theft on your company's time and the employee responsible for the theft has already resigned and cannot be found.

Could this scenario happen at your organization? The reality is that it could happen anywhere, despite the precautions you have put into place. Whether it is an employee with access to the personal information or a fellow employee who "stumbles" upon a file with your employees' confidential information, the probability of identity theft happening at your organization is growing every year. Employers are being held liable in the court system for creating an environment that facilitated the theft by not having proper precautions in place to prevent the theft of information. Some companies over the past few years have paid significant money, upwards to millions of dollars, to settle class action suits brought by employees who become identity theft victims due to their employers' negligence.

Employers can put policies and procedures into practice to minimize the possibility of your employees becoming identity theft victims. Some of the precautions you should take are as follows:

- Keep personal information secure. Lock filing cabinets with personnel files and only give the key to required individuals. Password protect every employee computer file, even if there is a password on the computer itself. The more precautions you have in place, the more secure your files will become.
- Always be vigilant as to which employees have access to confidential information. The entire accounting department should not have access to employee social security numbers; only the individual(s) who does payroll and benefits needs that information.
- Do your background and reference checks. Know who the employees are that have access to personal information and perform your due diligence to get to know the criminal and credit backgrounds.
- Get a reliable shredder or shredding service. All personal employee information must be shredded and destroyed. Never throw confidential information out in the trash without shredding it completely.
- Do not use employee Social Security numbers as employee identification. Never use the numbers on timecards, paycheck stubs, insurance cards, or any correspondence that could be seen by fellow employees or the public. [Congress is currently reviewing a bill, entitled "Social Security Number Privacy and Identity Theft Prevention Act of 2003," that would severely limit the use of Social Security numbers in the workplace and beyond. While it has not been signed into law at this point, employers are being strongly encouraged to put procedures in place now to limit the use of Social Security numbers. The liability is out there, even without the law in place at this point.]
- Build a firewall to keep employee and customer data from being e-mailed or faxed to other locations. Ensure that information from these confidential files cannot be disseminated electronically from your organization.
- Designate one individual to handle legitimate employee inquiries. All inquiring businesses, such as loan officers or landlords, must provide a copy of a signed release form with the employee's signature. Only confirm the information requested.

Despite the efforts to minimize risk, if you ever suspect that employee information has been or could have been stolen, you must immediately notify the affected individuals and strongly encourage them to obtain copies of their credit report from the three credit reporting bureaus; Equifax, Experian, and Trans Union.

Employers have a responsibility, in the current environment, to protect their employees' personal information. You must make the effort now to prevent identity theft within your organization, to avoid paying for the losses after it happens. ■

Angela Blum is the Human Resources Director at Sax Macy Fromm & Co., PC. For more information contact Angela at ablum@smf-cpa.com.

For Your Information

Protecting Your Assets: Planning for the Bankruptcy of One of Your Customers

In the area of planning for a customer's bankruptcy the questions often asked are: (1) How do you legally plan for one of your customers filing for bankruptcy? and (2) What can a business do to minimize the risk when one of its customers does file for bankruptcy? This article gives a brief answer to these questions and provides certain preventative measures that can be taken, but it is by no means an exhaustive discussion on the complicated legal issues that can be involved in bankruptcy.

The answer to the first question as to legally planning for a customer's bankruptcy is difficult to answer because customers have unexpected down turns that cannot be predicted. Investigation and preventative measures, however, can be put in place to best protect your company if a bankruptcy occurs. For instance, keeping on top of long over due accounts receivable and contact with the customer and other vendors are important protective steps. Furthermore, if you become aware that a particular company is a credit risk and may seek bankruptcy protection, you can significantly reduce your exposure by initiating certain payment alternatives that will protect your interests. These alternatives include obtaining advance payment or cash on delivery (COD) for shipment, establishing an evergreen retainer or cash deposit, obtaining letters of credit, and entering into third party guarantees. Of course, knowing your customer and obtaining periodic credit reports and financial statements on large accounts is a major key to avoiding future problems.

The answer to the second question as to minimizing the risks in the event of bankruptcy is more complicated. Companies have different options under the bankruptcy laws with the two primary chapters most utilized by businesses being Chapter 7 and Chapter 11. Chapter 7 is commonly known as the liquidation chapter in which the business is usually shut down and a trustee appointed to oversee liquidation of the company. By contrast, Chapter 11 is commonly known as the reorganization chapter in which the company proposes a plan of reorganization to restructure their financial obligations.

With any bankruptcy filing, creditors should receive a Notice of Commencement of Case form, which gives notice of the bankruptcy filing, notice of the initial 341(a) hearing, the court the case is pending, whether it is an asset or no asset case, and, depending upon the type of case, may include a proof of claim form. At this point, it is critical that the Notice of Commencement of Case is acted upon immediately and, if necessary, a proof of claim filed for the amount owed your company. If your company is not properly listed as a creditor you may not receive this notice and steps must be taken immediately to protect your company's interests. Upon learning of the bankruptcy, your firm should consult an attorney immediately, as the beginning of any bankruptcy case is commonly the most important strategic aspect of the case.

Another frequent problem encountered is that a creditor may be sued by the debtor's estate for receiving pre-petition preferential payments. The bankruptcy code permits a debtor to recover payments made shortly before the bankruptcy filing in certain circumstances. Built into the Bankruptcy Code, however, are defenses that a creditor can raise if a preference action is brought against it. The most common defenses used to such actions are the contemporaneous exchange of value, ordinary course of business and the new value exception. These defenses closely relate to the notion of strongly encouraging parties to continue dealing with the debtor on normal terms, even after the debtor is having financial difficulties. The key to utilizing these defenses is to keep the account receivable current and, if not current, continue to follow ordinary billing practices with clients.

In sum, investigation, appropriate preventative measures and acting immediately in the event of a bankruptcy filing are critical steps that should be utilized in order to best protect your company against bankrupt customers. ■

John J. Scura II, Esq. is a Partner at Scura, Mealey & Scura, LLP and former Standing Chapter 13 Trustee for 23 years in the District of New Jersey, Newark Vicinage. For more information on protecting your assets contact an SMF professional.

Tax Advisor

If Your Business Does Research Uncle Sam Can Help

Simply because your company doesn't have a crew of scientists hunkered down in labs or engineers with the U.S. patent office on speed dial doesn't mean you can't claim a tax benefit for research and development.

From contractors to manufacturers, many companies may not realize they can claim a federal income tax credit. Federal tax regulations have made it easier for companies to qualify.

Your organization may be able to claim the credit if you:

- Use technological processes to make tangible products and make improvements to the product or processes.
- Develop new or improved processes for producing goods.
- Develop new or improved software applications for internal or external purposes.

If your business is trying to make a better product or improve its efficiency and reduce protection costs through technical development, you may be eligible for the R&D credit. Basically, the federal government wants to help finance your research and development.

As a general rule, your business can receive a federal tax credit of up to 10 percent of qualifying research expenses. The credit is computed by making a determination of the current year's qualifying expenses and prior years' base amount of qualifying expenses.

However, not all expenditures incurred for research and development will qualify. Simple trial-and-error doesn't count; the process must be more in-depth than throwing darts and hoping for a bulls eye.

Costs that qualify for the credit include W-2 wages; non-capitalizable materials and supplies; and 65 percent of the costs of an outside consultant hired for research. ■

For more information on Research & Experimentation Tax Credits contact *Michael Rolls* at mrolls@smf-cpa.com.

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SMF UPDATE!

Total Client Focus

A quarterly newsletter by Sax Macy Fromm & Co., PC

Noteworthy NJ Tax Developments in 2004

Recently there have been a number of significant tax developments in New Jersey that could affect you. Following is a brief summary of the major tax developments for New Jersey in 2004:

An increased gross income tax on high-income taxpayers establishes an additional tier in the graduated gross income tax table for taxpayers with taxable income above $500,000. The portion of income exceeding $500,000 shall be taxed at a marginal rate of 8.97%. This law, retroactive to January 1, 2004, requires all employers to withhold from salaries, wages and other remuneration paid in excess of $500,000 during the remainder of 2004 at the rate of 12%. The new withholding rate is effective immediately and must be instituted by all employers no later than September 1, 2004. On January 1, 2005, the top withholding rate will be reduced to an annual rate of 9.9%.

The decoupling from Federal depreciation and Section 179 expensing deductions was signed by Governor James E. McGreevy as part of his fiscal year 2005 budget package. This bill decouples NJ corporation business and gross (personal) income taxes from the increased Federal Bonus depreciation and Section 179 expensing deduction. For property placed in service on or after January 1, 2004, the Federal section 179 expensing deduction limit is $100,000, the New Jersey deduction will be limited to $25,000.

New legislation governing Corporate Net Operating Loss Changes allowing for calendar years 2004 and 2005 a limited net operating loss (NOL) deduction. The deduction permitted may reduce entire net income by up to 50%.

A revised Realty Transfer Fees law increases the realty transfer fee rates on transfers of real property and subsequent deed recordings. The law imposes a new fee upon buyers of property zoned for residential use, whether improved or unimproved, whose purchase price exceeds $1,000,000. The fee is equal to 1% of the entire amount of consideration. The new law affects deeds that are physically delivered or offered for recording on or after August 1, 2004.

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Firm News

Kathleen Alexander completed her one-year tenure as Chairman of the Board of the Tri-County Chamber of Commerce and was recently honored at a luncheon. Sax Macy Fromm was also honored with "The Champion Award" for their continued support of the Tri-County Chamber of Commerce.

Steven Kaplan recently attended the conferences entitled "Family Limited Partnerships – It's A Whole New Ballgame" and "2004 Federal Tax Day In New Jersey", both presented by the New Jersey Institute for Continuing Legal Education. Team members are always sharpening their skills and looking for new ways to deliver superior services.

We are proud to announce the promotion of nine firm members to the positions of Supervisor, Senior Associate and Associate:

- **John Mellage** CPA, a graduate of Fordham University was promoted to Supervisor. John has been with the firm for over seven years.
- **William Ryan** CPA, a graduate of Montclair State University and **Paola Jaramillo** a graduate of Kean University, were promoted to the position of Senior Associate.
- **Joshua Chananie**, a graduate of Binghamton University, **Michelle Espey** JD, a graduate of Quinnipiac School of Law, **Jason Garodnick** MBA, a graduate of Pace University, **Crea Mallery** MBA, a graduate of Rutgers University, **Elizabeth Potoczak**, a graduate of Montclair State University and **Danielle Reinert** JD, a graduate of Villanova University were promoted to Associate.

In making this announcement, Ralph Heiman, Managing Director, noted the hard work and dedication on the part of those promoted. He stated, "At Sax Macy Fromm, our people are our most valuable asset. With the success of each individual the entire SMF team gets stronger."

Ralph Heiman spoke before the McGladrey Forum in Orlando. Ralph addressed the group on SMF's experiences in developing Research & Experimentation (R&E)

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Noteworthy NJ Tax Developments in 2004 *continued*

An estimated Tax on Income from Sale of Real Property by non-residents has been imposed effective August 1, 2004. The new regulation requires non-residents who derive income from the sale of real property in New Jersey to pay an estimated gross income tax. The act provides that a County Recording Officer at the time the deed is filed must be presented with evidence of filing or payment of estimated taxed with respect to the gain realized from the sale.

A New tire fee of $1.50 (per tire) is imposed on the purchaser of a new motor vehicle tire if the purchase is subject to New Jersey Sales Tax, effective August 1, 2004. The fee is also imposed on new tires that are component parts of a purchased or leased motor vehicle. The fee must be collected from the purchaser by the vendor, and generally must be stated separately on any bill, invoice, receipt or similar document. The fee will not be considered part of the receipt for purposes of determining sales tax.

The Electronic Funds Transfer (EFT) threshold has been lowered for New Jersey Tax Payments due after July 1, 2004. Taxpayers with a prior year tax liability of $10,000 (previously $20,000) or more must make payment by Electronic Funds Transfer (EFT). Payers of gross (personal) income tax, transfer inheritance tax, and estate tax are exempt from the EFT requirement. ■

Joseph Rockwell is a Tax Manager at Sax Macy Fromm & Co., PC. For more information on New Jersey tax law contact an SMF professional.

Firm News *continued*

tax credits for clients. White coats and lab equipment are not necessary to take advantage of this credit. R&E credits allow a portion of what a business invests in developing new products or processes to be taken as a credit on Federal taxes.

Allan Wolf and **Todd Polyniak** attended the AICPA National Not-For-Profit Industry Conference recently held in Washington, DC. The conference covered topics and issues unique to the special needs of the Not-For-Profit industry. The two-day conference attracted Not-For-Profit professionals from across the nation. In addition to the conference, Allan has been delivering a presentation on “The Fiduciary Responsibilities of Not-For-Profit Board Members”. He has presented this numerous times before not-for-profit boards and at the Boys and Girls Clubs of America Regional Conference. Allan’s presentation helps Board members understand just what their responsibilities are as members of Not-for-Profit Boards of Directors.

Robert Paz has been speaking before bankers on “What Makes a Good Contractor”. Taking this approach Bob helps bankers understand the intricacies unique to the Construction industry. Bob specializes in the construction industry and is one of the founders of the “New Jersey Construction Council” (NJCC) a group of dedicated professional service providers “Focused on the Business of Construction”.

Marc Blumenthal and **Lawrence Gradzki** spoke before the Morris County Chamber of Commerce on Tax Strategies for US based exporters more specifically, “Extra Territorial Tax Credits and ICDISC”.

Marc Blumenthal and **Stuart Berger** also spoke before a group of Mortgage Bankers on another tax strategy offered by SMF, “Cost Segregation Studies”. These studies allow the acceleration of depreciation for personal property associated with the acquisition or construction of a building and can result in significant tax savings.

Hillard Kaufer a specialist in tax controversy and Chairman of the NJSCPA Cooperation With the IRS Committee recently took part in the “Navigating the New IRS” program held by the NJSCPA. Hilly has participated in numerous IRS conferences and symposiums and is well respected in the IRS community. Hilly works toward fair and equitable resolution to taxpayer matters.

Marc Blumenthal and **Robert Hopper** delivered perhaps the most challenging presentation at the Passaic County Economic Development seminar. The seminar was titled “How to finance your business expansion”. SMF’s presentation was titled “How your accountant can lead the way” and lead the way they did. When the technology failed and there was no PowerPoint to back-up the presentation, Marc and Bob presented their information without missing a beat. They made light of the non slides on the 12 foot theatre screen and had the audience riveted with their commentary. Being able to adapt to changes and the unexpected is a key element to success. This is definitely an attribute you should look for on your business team.

SMF professionals have a wealth of information to share on a variety of business issues. If you are interested in having one of our team members speak before your group or organization contact your SMF professional or Nick Veliky, Director of Marketing, to make arrangements. ■