



The Bulletin



East Bay Association of Enrolled Agents
*To Enhance and Protect the Professional, Economic, and
Educational Interests of all Enrolled Agents*

February 2009

NEXT MEETING Wed, February 18, 2009

Place: **DUBLIN Radisson Hotel**

(go to http://www.radissondestinationguide.com/location/Map.process/OID_EB39EA2D/?hotelCode=CADUBLIN)

4:30 Board Meeting

6:15 Networking

6:45 Dinner Buffet

7:15 Program: **"FTB Tax Panel"**

Cost: \$35.00 with reservation by Friday February 13
\$45.00 with reservation after deadline

Sign up online at:

<https://www.123signup.com/calendar?Org=ebaea>

(please print out your confirmation to ensure that you clicked all the right buttons to register) Questions: email ebaean@ebaean.org (preferred) or call 800-617-1040.

February Topic: "FTB Tax Panel"

Speakers: Karen Brosi and Steve Sims

By Phil Fiegler, EA, Program Chair Emeritus

This month we will have a panel discussion on CA tax issues. The session will be transcribed and distributed to the members (thanks to Mike Power). **It is crucial to e-mail your questions to Mike (mpower@powerinvesting.net) by the evening of Friday, Feb. 13th, if you want to have the best chance of having them answered.**

Our panelists will be Karen Brosi, EA, CFP, and Steve Sims, EA, FTB. Steve is one of only a handful of FTB employees who is also an EA. He has been with FTB for 24 years (I guess he was about 17 when he started there) and has worked as an auditor, collection supervisor, project manager and manager of Community Services and Small Business Outreach. Steve is currently the Taxpayer Advocate for the FTB, so he knows everything going on there. He is living proof that good guys do sometimes wear black hats. Karen, whom I'm sure most of you know, has been practicing in Palo Alto for

over fifteen years. She is a Certified Financial Planner and an Enrolled Agent. She was a senior tax specialist and director of financial planning at a respected Palo Alto CPA firm before forming her own practice. Karen is a past-president of Golden Gate Chapter and past officer of CSEA. She has spoken for Spidell Publishing, is often a speaker at the Super Seminars, and has authored content for Spidell's CA Taxletter and Elder Client Planner. She has recently launched another speaking endeavor with the esteemed Sharon Kreider for Western CPE.

PRESIDENT'S MESSAGE

by Peggy Hall, EA

Don't be afraid of the storm; learn to dance in the rain. Gratitude – have gratitude in any situation. It is not what happens to us, but what happens in us. I am too blessed to be stressed. Please share with me and fellow Members any sayings that will help us stay positive throughout the coming tax season. And remember to check out the NAEA Member Community web board, specifically the section called 'Laugh of the Day.' You will laugh!

We had 10 members and one guest represent our Chapter on Jim Stern Legislative Day in Sacramento. Wow! We have good reason to be proud as we have truly made a difference with our legislative visits. This past visit was a first for a few of my fellow Enrolled Agents. Needless to say, it has been a time of chaos and change in Sacramento, including changes in their office locations. We waited 20 minutes at the office of one local representative, only to find that office had moved earlier that day!

The next day, nine of our members attended the CSEA Board and committee meetings. The topics discussed in the committee meetings include fundraising for our Political Action Committee, and our Legislative Committees, scholarships, member recruitment, ethics, meeting the educational needs of our Members, strategic planning and much more. Later, we sat in the bar discussing tax issues until midnight. Can you imagine? No,

neither could I. However, it was a great time enjoying the fellowship of other EAs who understand the joys and pains of this business. I will surprise everyone with all the juicy information at the next CSEA Board meeting. You are welcome to attend so that you, too, can know the latest and the greatest.

According to the recent CSEA survey, many members expressed a strong desire to have more political advocacy from this organization. You can help us obtain this goal by participating in activities on Jim Stern Legislative Day, or attending the local legislative visits.

Congratulations to Lonnie Gary, EA, USTOP who has been named subgroup chair of IRPAC's Office of Professional Responsibility. He will lead the eleven-member subgroup, which is composed of tax attorneys, CPAs, and EAs. Congratulations to Kim Kastl, EA, 1st VP for CSEA. Thank you both for your continuing dedication to our organization.

Remember to utilize the NAEA community forum and the CSEA forum for support and assistance with your business and procedural questions. If you have technical trouble with either, contact the NAEA or CSEA office. When you ask a question on the NAEA board you will get many responses almost immediately. You can also learn a lot when you answer questions for other posters. This is one of our many great Member benefits. In fact, the greatest of Member benefits are the intangibles. If you are not connected with our Members for information, support and fun, then you are not involved enough. Get involved!

Thank you all for your responses to the numerous surveys in EBAAE, CSEA and NAEA. We want to serve you in the best possible way, and can only do so by knowing what you want. Please continue to communicate with us, good or bad, as we want to know what is on your minds.

I am going to conclude this message with a comment someone gave on the CSEA survey. "What I value most about CSEA and my Chapter is its continued and unwavering commitment to their principles, and their adherence to the highest level of ethical and professional standards, mixed with a shaken, not stirred generous portion of humanity, demanded of us by those that have gone before."

ARE YOU GETTING IRS ALERTS?

Most e-filers already subscribe to IRS QuickAlerts to receive valuable and timely information that impacts you, your clients and your in-house e-filing program. If you are not enrolled in this free service, you may want to consider registering at

<http://www.envoyprofiles.com/QuickAlerts/>

For more information, visit IRS.gov at http://www.irs.gov/taxpros/providers/article/0,,id=97623_00.html

ICE- IN CASE OF EMERGENCY

Courtesy of Ken Seamann, EA

(Apparently this is a standard procedure all paramedics follow at the scene of an accident when they come across your cell phone.)

We all carry our mobile phones with names and numbers stored in its memory but nobody, other than ourselves, knows which of these numbers belong to our closest family or friends.

If we were to be involved in an accident or were taken ill, the people attending us would have our mobile phone but wouldn't know who to call. Yes, there are hundreds of numbers stored but which one is the contact person in case of an emergency? Hence this 'ICE' (In Case of Emergency) Campaign

The concept of 'ICE' is catching on quickly. It is a method of contact during emergency situations. As cell(mobile) phones are carried by the majority of the population, all you need to do is store the number of a contact person or persons who should be contacted during emergency under the name 'ICE' (In Case Of Emergency).

The idea was thought up by a paramedic who found that when he went to the scenes of accidents, there were always mobile phones with patients, but they didn't know which number to call. He therefore thought that it would be a good idea if there was a nationally recognized name for this purpose. In an emergency situation, emergency service personnel and hospital staff would be able to quickly contact the right person by simply dialing the number you have stored as 'ICE.'

For more than one contact name simply enter ICE1, ICE2 and ICE3 etc. Let's spread the concept of ICE by storing an ICE number in our Mobile phones today!

Please forward this. It really could save your life, or put a loved one's mind at rest. ICE will speak for you when you are not able to.

2009 IRS PRIORITY TELEPHONE LINES

Practitioner Priority Service	(866) 860-4259
IRS Individual Tax Help Line	(800) 829-1040
Business & Specialty Tax Line	(800) 829-4933
e-Help (Practitioners only)	(866) 255-0654
Refund Hotline	(800) 829-1954
Forms & Publications	(800) 829-3676
National Taxpayer Advocate	(877) 777-4778
EFTPS	(800) 555-4477
TeleTax Topics & Refund Status	(800) 829-4477
Forms 706 & 709 Help Line	(866) 699-4083
Employer Identification Number	(800) 829-4933
Excise Tax & Form 2290	(866) 699-4096
Information Return Reporting	(866) 455-7438
Disaster or Combat Zone Hotline	(866) 562-5227

More IRS info at www.irs.gov 2009 FTB Directory:

<http://www.ftb.ca.gov/forms/misc/1240.pdf>

LEGISLATIVE DAY REPORT

by Chris Christopherson, EA, Leg Chair

CSEA's annual Jim Stern Legislative Day had a terrifically diverse collection of Enrolled Agents that descended upon the State Capital Friday January 9. This annual event is held in two locations, with one year gathering in the Capital and next in the local district offices. Although the Capital gathering has more glitz and excitement meeting in the States' Power Center with our elected officials, many Legislation Day veterans pointed out "local district office visits have a greater impact".

We were given some background on various pieces of Legislation by CSEA's lobbyist Steve Baker of Aaron Read and Associates. CSEA put EAs in small groups made up of the various legislative districts to meet with elected officials throughout the morning. Each official received a packet which included: "What are Enrolled Agents, Legislative Position Statements, Confidentiality - Taxpayer Communications, and Licensing of Professional Fiduciaries in California".

"What are Enrolled Agents" is great coffee table reading material. This is a terrific networking and educational handout when discussing estate planning, gift issues taxes, and taxation in a community setting.

"Legislative Position Statements" is a quick concise view of CSEA's values on many non-conforming federal taxation issues making their constituents', our clients' lives and our practices easier.

"Confidentiality: Taxpayer Communications" is a discussion on why EA client communications of tax advice should be treated like those of attorneys'.

"Licensing of Professional Fiduciaries in California" was a white paper that gave the background of Senate Bill 1550 (Figueroa, Chapter 491, Stats. 2006) and signed into law by Governor Schwarzenegger in 2006 creating the Professional Fiduciaries Bureau. It was understood then that attorneys, CPAs and EAs would be granted limited exemptions due to each profession's strict licensing requirements and codes of ethics. However, the director of the Professional Fiduciaries Bureau has issued a very narrow interpretation of the language codified in Section 6530 (d) of the Business and Professional Code which conflicts with CSEA's understanding of intent in the original legislative process. There is much more information included in the four page white paper that can be found on CSEA's website. Whether this impacts your practice or not, it is recommended that you familiarize yourself with the various issues. One never knows when a "passing" issue becomes "pressing". CSEA had each group see if any of the officials would be interested in supporting a bill to clarify the current language. There was incredible interest in doing so, particularly by those recently elected.

Both legislative body offices were being moved, limiting the officials actually available. The groups still had spirited discussions with staff members over the var-

ious folder talking points. The Capital atmosphere, camaraderie and networking opportunities were wonderful. The time and effort that the staff of CSEA puts into such an undertaking isn't appreciated enough by it Members.

BULLETIN ADVERTISING POLICY

by Duncan Sandiland, Bulletin Editor

To encourage more Members to use the Bulletin to fill their needs, we present the Bulletin advertising policy:

- 1) All Bulletin notices are run for a maximum of three months. If you wish to run a notice for a longer period, you must resubmit it.
- 2) Maximum notice size is 1.5 column inches. This equals a space one and one-half inches high by one column (3.5 inches) wide. The standard Bulletin font is Times New Roman 11 point.
- 3) The Bulletin Editor reserves the right to edit any notice for style, content and length.
- 4) All notices must be submitted (and payment received) by the 25th of the month prior to initial publication. Send the desired text to: bulletin@ebaea.org
- 5) Member notices seeking or offering employment, clients or EA-practice-related matters are run at no charge as a Member benefit. This includes an ad run by a firm which employs a Member. Member notices offering other services or products, and all non-Member notices are run at the standard fee of \$150 for the three-month insertion. The Bulletin Editor reserves the right to modify or reject any notice which, in the sole opinion of the Editor, violates any of the principles of EBAEA.

NEED PAYROLL HELP?

Farm out your payroll headaches. EA has great web based system for you or your clients - a great alternative to large service bureaus or QuickBooks. Keep your tax and business clients happy, let us do the payroll. Semi-monthly \$60 per month up to 6 employees. Linda Fox EA 925 846-5913 Fox4tax@aol.com

TAX SEASON HELP WANTED

Oakland EA seeks part-time help from February 15th to April 15th. Approximately 6-12 hours (1-2 days) per week, or possibly more if wanted, no dress code. Hours negotiable with possible evenings or weekends. Lacerte experience is required. Responsibilities will include return preparation and administrative tasks: phones, mail processing, filing/copying, document and return assembly. Must have reasonable computer skills including MS Office programs. Must have a good memory, be able to multi-task, prioritize, and have good communications skills. Please email a resume with cover letter detailing experience, licensing designation and expected compensation to pf1592-tax@yahoo.com.

ASK THE ATTORNEY

(Attorney Frank Acuña answers questions frequently asked by our clients (and us). These are general answers and are NOT legal advice. For clarification or other questions, contact Frank at (925) 906-1880 or at ohc@aclawnet.com)

I have a small business. Do I need to incorporate?

Businesses may be held in a wide variety of ways: sole proprietorship; partnership; corporation; limited liability company. Which form of ownership should be chosen depends upon many factors including the assets held; whether there are multiple owners; the type of business venture; and the needs of the business (growth, investment, or business succession).

Corporations, limited partnerships, and limited liability companies may shield the owner's personal assets. And, in all cases, when more than one person is involved with a business, it is very important to have a written agreement in place which deals with potential business issues. A good attorney will help you think through issues and decide on the best business form and assist you with business formation, annual maintenance, and issues as they arise.

Small Group Tax Meetings

Antioch /Brentwood Fridays 8:00am
Brentwood Café, 8500 Brentwood Blvd, Brentwood
Ken Seamann EA (925) 634-8297

Danville Area 4th Tue 9:30am
Pascals French Oven, 155 Railroad Ave, Danville
Michael Power EA (510) 366-8836

Livermore Area Fridays 8:45am
Rock House Café on Portola Ave, Livermore
Richard Goudreau EA (925) 606-6672

Castro Valley 3rd Tue 8:00am
Carrow's, 2723 Castro Valley Blvd @ Lake Chabot, CV
Dagmar Bedard EA (510) 537-3883

South Alameda County 1st Wed 9:30am
Dino's, 1 block W of I-880 on Industrial Blvd, Hayward
Sal Romo EA or Walt Thomas EA (510) 487-1691

Email-only Group as needed
Send an email to halloftaxes@hotmail.com
Peggy Hall EA (925) 388-1040
Want a group in your area? Contact any of the above leaders for advice and assistance.

TOYS FOR TOTS

Joanne Anderson sends her thanks to all who generously brought toys to the December dinner meeting. Most toy drives suffered from a significant decline in donations last year, and the firemen were delighted with all the toys Joanne delivered.

PET TRUSTS

Courtesy of Channel Islands Chapter

California law provides that a person can create a trust for the care of a designated domestic or pet animal for the life of the animal. In 2008, Governor Schwarzenegger signed SB 685 into law. Prior to passage of this bill, California pet trusts were honorary and not practically enforceable. Now, under the new law, California pet trusts are enforceable and creators of such trusts should be more assured that their wishes regarding their pets will be respected. Under a pet trust, a trustee pays a caretaker to ensure that the pets are housed, fed and otherwise maintained. The new law removes the discretion of the trustees in fulfilling the trust and allows courts to appoint a caregiver if the trustee does not wish to arrange for the pet care. Perhaps the most famous pet trust was revealed after the August 2007 death of Leona Helmsley, who left \$12 million in a trust for the care of Trouble, her Maltese, while leaving nothing to two of her grandchildren. A New York City surrogate judge recently reduced the trust fund for the 9-year old dog to \$2 million.

CALENDAR OF EVENTS

February 2009

- 18 EBAEA Dinner Meeting: "FTB Panel"
@ Radisson Hotel, Regional St, Dublin

March 2009

- 18 EBAEA Dinner Meeting: "IRS Panel"
@ Radisson Hotel, Regional St, Dublin

April 2009

No April meeting – get some rest!

May 2009

- 20 EBAEA Dinner Meeting and Annual Corporate Meeting: "Current Legislation"
@ Radisson Hotel, Regional St, Dublin

LAW CHANGE REMINDERS FOR 2009

The annual gift tax exclusion increased to \$13,000, and the estate tax exclusion increased to \$3,500,000. The estate tax rate is now a flat 45%.

HMMMM...

Igor Panarin, a prominent Russian professor, predicted in September 2008 that the United States will disintegrate in 2010 and will be split up into 6 parts that would be taken over by Russia, Japan, China, Mexico, Canada and the European Union. Panarin predicted that the economic decline of America would trigger a civil war by the summer of 2010. (WSJ)

2008 - 2009 Board of Directors and Committee Chairs

Web Page <http://www.ebaea.org>

President: Peggy Hall EA 925-388-1040 Disaster Services: Janet Bridges EA 510-505-0818
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Director 2008-2010:
 Chris Christopherson EA 925-786-7660
 Cherry Comstock EA 925-778-0281
 Bob Olsen EA 925-837-8329
CSEA Directors: Walter Nygaard EA, etc 510-547-0440
 Don Wayne EA 925-472-0990
IRS Practitioner Panel: Phil Fiegler EA 510-530-1174

Communication Committee, (2nd VP)
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Membership: Clare Flores EA 510-785-8356
Membership: Marjorie Jones EA 510-785-8356
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Education Committee, (1st VP)
Chair: Walter Nygaard EA, etc 510-547-0440
Tax Talk: Bonnie Buhnerkempe EA, etc 925-855-0829
Program: Cherry Comstock EA 925-778-0281
 Bob Olsen EA 925-837-8329
Scholarship: Pam Bayer 925-356-5645
Continuing Ed: Joanne Anderson EA 925-938-9086
Town Hall: Ravi Sundarraj EA 925-984-1219
SEE Class: Thomas Johnston EA 925-828-4500
Mini Seminar Team:
VITA Team: Brian Pon EA, etc 510-849-4667

Administration Committee (IPP)
Chair: Thomas Johnston EA 925-828-4500
Financial Review: Dick Goudreau EA 925-606-6672
Bylaws/SOP: Sal Romo EA 510-487-1691
Budget & Finance: Walt Thomas EA 510-487-1691
Chapter Office: Lonnie Gary EA, USTCP 650-559-5124
Legislative: Chris Christopherson EA 925-786-7660
Nominating: Thomas Johnston EA 925-828-4500
Strategic Advisory:
Bulletin: Duncan Sandiland EA, etc 925-691-1040
Tax Agency Liaison:
Volunteer Coordinator: Patty Pringle EA 510-912-1682

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Retirement plan contributions for sole-owner S Corporations

by Andy Rogers, EA (with help from some great friends)

Editor's note: This article grew out of a discussion on an email list. Massive thanks to Andy and his unsung cohorts (you know who you are) for finishing off the research and writing this up in a presentable, usable article. It is included in this format so you can print off both pages and keep it as a desktop reference. Don't forget to keep Andy's number handy. Also, please consider sending in some of your own discussions so other Members can benefit from your knowledge and research. Finally, please remember that these are Andy's opinions and he hasn't seen your client's situation so don't blame Andy if your client (or his/her stockbroker) messes this up!

This is ONLY about SEP's and 401(k)s for 100% owners of S Corporations with no other employees. I don't discuss tax returns for retirement plans. I have also not included the "catch up" contribution limits for the 401(k). I'm presuming in my example the shareholder is under 50 years old. Employees need to be considered in retirement planning, so if you have other employees or expect to have employees "someday," I'd use a professional administrator.

There are two different sources of contributions to retirement plans: Employee and Employer. Money withheld from employees through payroll is called an "Elective Deferral." These amounts are excluded from income tax, but are still subject to FICA, FUTA and SDI taxes. Money contributed by an employer is not only excluded from the employee's income tax, but also not subject to FICA, FUTA nor SDI tax, because it is not payroll.

The limits on contributions from either source are based on W-2 income. The limits do not include the pass through amounts from the K-1, as these are not earned income. The amount on the K-1 is irrelevant for the retirement plan contribution calculation. When the employer, the S Corporation, makes a contribution towards the shareholder's retirement plan, it is deducted at the corporate level. There is no box on the K-1 to pass through a retirement plan contribution.

That pesky 2% rule applies to fringe benefits. I guess a retirement plan is a 'mainstream benefit?' (A side note: health insurance IS a fringe benefit, so technically, >2% shareholder health insurance is supposed to be added to the shareholder W-2 in boxes 1 and 17, with the code "Health" and the amount in box 14. SE health insurance is then deducted by the shareholder on the front of their personal 1040 as they are able. Health insurance fringe benefit is not subject to FICA, etc., and not passed through on the K-1, although it sometimes appears there if we don't have control over the W-2).

SEP (Simplified Employee Pension) Contribution Deadline and Limits

Contributions to a SEP may be made up to the due date of the employer's return, including extensions, and you can set up the plan as you make the contribution. Shareholder Elective Deferrals from the W-2 income do not exist for SEP plans for an S Corporation. Employer limits for excludable contributions are the lesser of 25% of the shareholder's W-2 wage (sole-proprietors and partners must calculate 25% of 80%, so being a corporation allows an extra 5% contribution), or \$46,000 for 2008 (\$49,000 for 2009) (IRS Notice 2008-102)

401(k) Plan Contribution Deadline and Limits

401(k) plan company contributions are due by the due date of the employer's return including extensions (same as the SEP), but the plan must be established on or before year end (different from the SEP). Elective Deferral payments are normally due within 7 days of the payroll date. You need to pay a professional administrator to write your 401(k) plan to make sure the plan documents allow for the maximum contributions.

Shareholder Elective Deferral contributions are limited to the lesser of 100% of employee salary or \$15,500 (\$16,500 for 2009). Employer contributions to a shareholder 401(k) are limited to 25% of W-2 (Medicare income from box 5), with a maximum of \$46,000 (\$49,000 for 2009). For the 401(k), the combination of employee deferrals and employer contributions is limited to \$46,000 (\$49,000 for 2009) – so if your W-2 wage is \$199,500 you can't get \$15,500 Elective Deferral plus another \$46,000 from the corporation.

Which is Best?

Let's run a comparison for a 100% shareholder of an S Corporation, Bob, who is 46, in 2008 with no other employees who wants to maximize his contribution to his retirement plan. Bob has W-2 wage of \$100,000 and K-1 of \$60,000 before making a retirement plan contribution. Bob wants to contribute the maximum allowable, and has set up his retirement plan with his pension administrator well in advance.

With the SEP

The rule is the corporation may contribute the lesser of 25% of W-2 wage or \$46,000, so Bob's S corporation contributes \$25,000. Bob's W-2 shows \$100,000 for all taxes. Bob's K-1 shows \$35,000.

With the 401(k)

The rule is Elective Deferral is the lesser of 100% of W-2 wage or \$15,500, so Bob elects \$15,500. This happened before year-end, because it came out of Bob's paychecks. Bob's W-2 box 1 and 17 taxable income is lower by \$15,500, but FICA, FUTA and SDI are still calculated at the \$100,000 wage (ok, ok \$100,000 for FICA, \$7,000 for FUTA and \$86,698 for SDI). The rule for the corporate contribution is the lesser of 25% of W-2 wage, or \$46,000, so Bob's corporation contributes \$25,000 more. Bob's K-1 says \$35,000.

If you plan ahead, like Bob did, the 401(k) allows more contributions, particularly at lower W-2 wage numbers because the Elective Deferral can be up to 100% of wages.

Andrew S Rogers, E.A. is a speaker and prepares taxes with Tax Buddha. Andrew specializes in S Corporations and their shareholders. You may e-mail Andrew at Andy@TaxBuddha.com Andrew gratefully acknowledges the significant help he was given in preparing this article.