

# DISCLOSURE

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## It's Summer—Time for a Midyear Financial Checkup

Even though the weather has not been great, staying inside with your finances probably doesn't sound like a very entertaining option. But a midyear review of your tax situation, retirement and spending issues can be far more valuable than the rushed attempt most people make at the end of the year—or when it's too late at tax time.

Summer's actually a good time to do this task because there's still enough time to correct lapses in savings, spending or tax planning. Here's what most people should cover:

### FINANCIAL CHECKLIST

✓ Retirement savings

✓ Taxes

Spending

Reserve fund

College savings

Special goals

Credit

**Retirement savings:** Given the state of the economy, it's not a bad time to review your retirement funds and your current investment allocation. It's great if you are on schedule to max out your contributions to your company retirement plan this year. But don't forget to check your existing IRAs and other retirement accounts to see if you'll have enough cash on hand to contribute the maximum in each account by their respective deadlines next year.

**Taxes:** If you received a sizable refund in April, or found it necessary to empty savings to pay Uncle Sam, it's definitely time to reassess what you'll owe at tax time next year. Also, if you think you'll have some losing stocks in your taxable investment accounts, keep an eye on those in case you'll need to offset gains in your portfolio at the end of the year.

**Spending:** Either on your computer or on paper, take the time to figure out where you're money's going. A look at the last six months of spending may reveal opportunities to reduce spending and redirect money toward more necessary goals. Also, take a look at such things as gym memberships, magazines that are piled up and coffee expenses. If you're not using these things, you can probably live without them. Doing this exercise can identify a surprisingly large amount that's unaccounted for that can be redirected to debt payment, savings and investments.

**Reserve fund:** Most financial experts encourage you to have between three and six months of living expenses in an emergency fund. If you don't have that minimum, go back to your spending review and see where you can start socking money away.

*see Summer, page 4*

## Multistate Business Tax Compliance Issues

By Laura DaFonseca

In the ever expanding global market, it is becoming more difficult for companies to identify their state tax filing requirements. The general rule of thumb was, if a company had a "physical presence" in a state, there was an income tax filing requirement within that state. The "physical presence" test was met if the company owned or rented a facility, stored inventory or employed staff within the state whereby the company created income tax nexus in the state. Public Law 86-272 was enacted to prevent states from inhibiting business commerce and to protect a company from having to file in every state in which it had customers. Its protection is only for the assessment of income taxes and does not cover sales or other taxes. Public Law 86-272 states that the mere solicitation to sell tangible property within a state will not create nexus in that state. Case law has provided examples of solicitation activities that an employee, or in some states, an independent contractor, can enter into without creating nexus. It also lists activities that surpass solicitation and can create nexus. Public Law 86-272 only protects companies selling tangible personal property; service companies will create nexus in a state when an employee or, in some states, an independent contractor enters the state solely for the solicitation of rendering services.

*see Multistate, page 4*



We are in the midst of one of the worst economies in American history. P&G is sensitive to the anxiety that such a situation can create for all of us. Certainly, we would like to be helpful to all of our clients and friends. Sometimes what appears to be a bad situation becomes an opportunity to position well for the future. With all of the combined talent and experience of our professionals, we believe we can help you get through these difficult times.

*Please stay in touch.*

# It's time to roll out the "Congratulations Wagon"!

## Comings & Goings

By John Mathias

First, P&G wants to congratulate Tax Department Senior Accountant, **Katie Arnold**, and her husband, Patrick, on the birth of their second son, David Patrick. A special "pat on the back" goes out to **Christina Hilton**, Tax Supervisor, on her recent appointment to the finance committee of Ronald McDonald House. Christina will serve as assistant treasurer until June of 2010 at which time she will become the treasurer of this worthy organization..... And that very loud cheer you hear is for Staff Accountant, **Kim Benevides**, who successfully completed the CPA exam.

Here we come, Newport! P&G is now a member of the Newport Chamber of Commerce and we look forward to participating in the various events of that fine organization.

From Newport, we jet to Las Vegas where Partners, **Rich Sullivan**, **Mike Tikoian** and **Frank DeLuca** attended the annual conference of BDO Seidman. P&G is a member of the BDO Seidman Alliance.

Recently the P&G contingent gathered in Foxboro for its annual management conference. Although the day was spent tackling a variety of technical and management topics, there was a little time to tour the Patriots' Hall of Fame and experience some of the history of our local football team.



Partners, **John Mathias** and **Sharon Kennedy**, traveled to Bryant University to take part in a case study for graduate students in accounting. The graduate students, as part of their program, had to plan the audit of a manufacturing company. John and Sharon posed as members of the company's financial staff in an attempt to simulate what it's like to actually gather information to plan an audit.

### Referrals Are Welcome:

Referrals are the cornerstone of any service business. This firm, like other professional service firms, relies on satisfied clients as our primary source of new business. Your referrals are both welcome and most sincerely appreciated.

Please feel free to contact any of our professionals!

We often sing the praises of those individuals from P&G who freely give of their time to make the community a better place. As business expands globally, so does our concept of "community" take on a global perspective. Senior Manager, **Bonnie Sirois**, along with her daughter, a junior at Bishop Stang High School in No. Dartmouth, Massachusetts traveled across the world to Dar es Salaam in Tanzania as part of Missions for Humanity. Bonnie describes her experience as truly "eye opening." While there, Bonnie took part in the local diocese's micro loan program which enables local women to obtain low interest loans to start businesses. Later in her two week stay, Bonnie worked with a medical team that visited a local village and assisted with intake and eye examinations. Her daughter was assigned to a medical team headed by a physician from Rhode Island.



In Tanzania, Senior Manager Bonnie Sirois delivers supplies to Headmaster, Fr. Stephano Kaomba

Tax Manager, **Marylou Nadeau's** 13-year old daughter, Lauren also demonstrated a high degree of initiative and creativity in trying to help less fortunate children in the Caribbean and Central America. Lauren, who aspires to be a pediatrician, desired to help children. Her mom introduced her to Kids to Kids, an organization with a mission of helping children in developing nations. Lauren decided that she was going to raise some money for these children who live further south in our hemisphere. Her idea was simple and effective. Lauren attends a school that requires uniforms. She enlisted the support of her principal and organized a "dress down" day. Of course, to take advantage of the opportunity to "dress down," each student had to make a small donation. At the last tally Lauren's idea has raised over \$2,000 that is sure to bring smiles to some needy children.



The P&G Team enjoyed this year's Annual Management Conference

*These wonderful stories speak for themselves. We'll be back in touch in our next edition of Comings and Goings.*

*Summer... continued from page 1*

**College savings:** If you are saving for your child's education or your own, check to see if you're on track with the goals you made for the year. It's also a good idea to read the latest news on financial aid since schools change their financial aid policies annually. Even if your child is still in grade school, it's a good idea to learn as much about college financial aid while you have plenty of time to learn.

**Special goals:** If your car is suddenly looking like it will need to be replaced or if this might be the last year for your furnace, see if you can direct more money into a reserve fund to cover replacement costs or at least a heavy down payment. If there's a vacation you want to take by the end of the year or a special household purchase you want to make, focus on the cash you'll set aside to make that happen. Of course, if you have credit card debt rolling over from one month to the other, maybe that should be your initial focus.

**Credit:** If you haven't set a schedule for receiving your three credit reports throughout the year, do it now. You have the right to get all three of your credit reports – from Experian, TransUnion and Equifax – once a year for free. You can do so by ordering them at [www.annualcreditreport.com](http://www.annualcreditreport.com). By staggering receipt each of your credit reports at different points in the year, you'll get a continuous picture of how your credit picture looks. Also, you'll have the opportunity to focus on possible errors in a single report, which will give the other two credit agencies time to update their files.

*Source: Financial Planning Association.*

## IRS Warns of New Identity Theft Scams

The Internal Revenue Service, in an August 4 news release (IR-2009-71), described several new identity theft scams involving the Making Work Pay tax refund, Form W-8BEN, and the promise of inherited funds or lottery winnings. IRS said the scams could take place through e-mail, fax, or phone.

Taxpayers should beware of any contact via unsolicited email, in particular those that ask for personal identifying or financial information, the release said.

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The following are some examples of salesmen's activities, performed as an employee or as an independent contractor in some cases, that are not protected by Public Law 86-272, unless considered de minimis activities:

- Making repairs or providing maintenance service on the property sold
- Investigating credit worthiness
- Approving or accepting orders
- Securing deposits on sales
- Carrying samples for sale
- Picking up or replacing damaged or returned property

Although Public Law 86-272 remains in effect, states have become creative in circumventing the "physical nexus" concept by creating other non-income based taxes such franchise taxes, value added taxes, commercial activity taxes, and single business taxes. These taxes are not based on income and therefore each state can identify what they consider activities that will create nexus within the state. In some cases, like New Jersey, merely driving company trucks through the state can subject the company to filing a tax return with only a minimum tax liability. In other cases, like Ohio, sales within the state over a certain threshold, with no other activity within the state can incur a commercial activity tax liability within the state.

States are now getting more aggressive and pursuing companies that they identify as having "economic nexus" in the state. In general, economic nexus is where a company, although not physically present within a state, aggressively targets the state through advertising, has significant sales in the state, utilizes the court system for collection proceedings, etc. The states are contending that the company's activities cause it to have "substantial nexus", measured by both quantitative and qualitative factors, and even though the company does not have physical presence it is subject to tax in the state.

More states are applying the "unitary" business principle in order to generate more tax revenue for the state. The state generally will consider multiple companies part of a unitary business if there is functional integration, centralization of management or economies of scale between the companies. Under the "unitary" principle only the companies with nexus in the state are subject to tax in the state, however, the nexus company of the unitary group will pay an income tax calculated on the entire "unitary" business income (all the companies' income combined). Further, the apportionment factor used to apportion the combined income to the state will include the in state sales of the non-nexus company. This could cause companies that have losses individually but have combined gains to pay more state tax and companies with lower combined gains than individual gains to pay less state tax.

These rules are diverse, complex, and ever changing. In the current economy where states are having difficulty meeting budgets, they will be looking for areas to generate more revenue either through developing new and more creative ways to tax or auditing companies for compliance in their state tax filings. If you need assistance reviewing your state tax compliance requirements, our tax department has the expertise to assist you.

## Is Your Sensitive Data Secure?

By Michelle Fonseca

As technology continues to grow and become a part of our daily lives, there is a tendency to embrace different types as safer than they really are. This pertains to data portability devices as well, such as flash drives or laptops. Many utilize these innovative devices to transport files for different reasons, whether it be personal, as with pictures or music, or professional, such as client information. Unfortunately, however, not enough consideration is given to the security of those devices— what happens if they are lost or stolen? Of course the chances are low, but it is still important to prepare yourself. Fortunately, recent technological advances allow for the protection of information using “file encryption “ software. File encryption is the process of using an algorithm to convert the data in such a way that it cannot be recovered without access to a key. There are many industry standards used today, and now they have been integrated into different types of software and even operating systems. Windows Vista users have the option of using BitLocker, a built-in program that can be activated to encrypt all files saved to a particular location. Mac computers also come with encryption software, called FileVault, which will encrypt all files stored in the home directory.

Encryption programs are also available on portable devices such as flash drives or external hard drives. Many come with built in software installed on the devices that automatically encrypts all saved files. Many companies offer products that utilize the same security measures as the Department of Commerce. Accessing these devices require biometric or password criteria, and some have the capability to auto-lock or self-destruct after a certain number of consecutive failed passwords. This again prevents unauthorized use if the drive were to become lost or stolen.

In conclusion, it is best to consider file encryption overall but especially when dealing with private or confidential data. When purchasing software, take into consideration the different levels of encryption, the device requirements and the price. It is never too late to prepare and protect yourself for the unexpected.

## Time to Convert a Traditional IRA?

Contributions to ROTH IRAs are non-deductible but the earnings within the ROTH are tax free unless the ROTH is distributed within 5 years of contribution and before 59 1/2 years of age. Traditional IRA earnings are taxed when withdrawn. With portfolios at low levels this may be the time to convert the Traditional IRA into the ROTH IRA and let the earnings grow potentially permanently tax free. Conversions may be advantageous to those who anticipate being in a higher tax bracket later and those who choose to avoid the required minimum distributions of Traditional IRAs.

Traditional IRAs can be converted to ROTH IRAs in 2009 if:

- Filing status is not Married Filing Separate
- Modified Adjusted Gross Income does not exceed \$100,000

In the year of conversion, the distribution from the Traditional IRA is taxable but will not be subject to the 10% early withdrawal penalty. However, taxable distributions within 5 years are subject to the 10% penalty.

In 2010, the ability to convert Traditional IRAs to ROTH IRAs is expanded to include everyone since the modified adjusted gross income limitation is eliminated in 2010.

## UPMIFA Passes in Massachusetts and Rhode Island

The Uniform Prudent Management of Institutional Funds Act (UPMIFA) has been passed in both Massachusetts and Rhode Island. In both states the legislation has an effective date of June 30, 2009; therefore, the provisions will impact non-profit organizations with June year-ends.

Since the laws are effective June 30, there will be some immediate accounting implications for June 30, 2009 year-ends. Please call us to discuss how these changes may impact your organization.

## Massachusetts Data Privacy Regulations Deadline Looms

Massachusetts regulators have given restaurants and other businesses conducting business in the state until January 1, 2010 to comply with new standards for storing and protecting credit card data and other personal information about customers and employees.

We encourage organizations of all types to do a quick check of where they stand, as the penalties for noncompliance will be steep.

## Please Don't Forget To:

By Sharon Kennedy

- ▶ File calendar year partnership, s corporation, limited liability company and c corporation returns no later than 9/15/09
- ▶ Document expenses incurred while looking for a new job as those costs may be deductible.
- ▶ Review 401(k) statements to verify the plan trustee has allocated the investments per your directions
- ▶ Notify us of any business transactions that are not routine.
- ▶ Have us review and adjust your year to date Quickbooks files now and get a jump start on year end reporting.



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