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2014 VOL.16

# KACPA Journal

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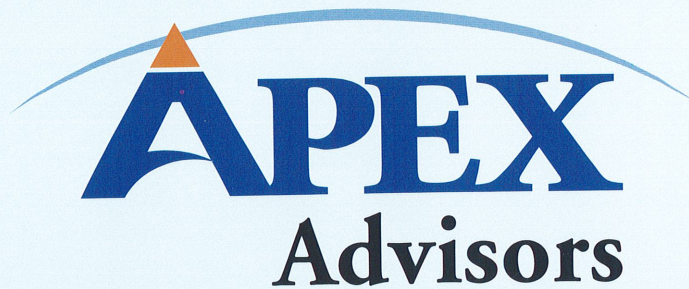


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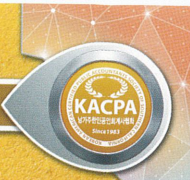


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2014년 12월 23일

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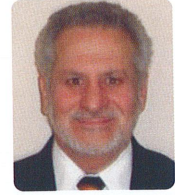
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# The Pronouncement of Private Company Council (PCC)

By Mark E. Dauberman, CPA



**The** battle between standard setters responsible for GAAP and members of the accounting profession began as early as 1962 when the recently formed Accounting Principles Board (APB) issued APB Opinion #2, "Accounting for the 'Investment Credit,'" requiring that the investment tax credit be deferred. Many members of the accounting profession disagreed with a response so overwhelming that APBO #4 was issued in 1964 giving the choice between immediate recognition and deferral.

In the interim, APBO #3 required a statement of source and application of funds, the predecessor to the current statement of cash flows, which created a further outburst and one of the earliest outcries for "Little GAAP." With added requirements related to accounting for leases, deferred taxes, and other areas, the protests increased.

Fast forward to the second decade of the 21st century and GAAP, in the form of the FASB Accounting Standards Codification, is estimated to approximate 23,000 pages in length if presented in printed form. Meanwhile the clamor for "Little GAAP" has gotten louder.

The standard setters are finally responding. The FASB created the Private Company Council (PCC), which is to evaluate existing GAAP and determine if there are accounting practices or disclosures that might be eliminated, reduced, or otherwise modified for nonpublic entities. To date, the FASB has issued three Accounting Standards Updates (ASUs) for nonpublic companies, all of which are effective for beginning after December 15, 2014, with early application permitted.

The ASUs, which provide alternative accounting approaches that are available to nonpublic entities are:

- **ASU 2014-02 – Topic 350 – Intangibles – Goodwill and Other:** Accounting for Goodwill
- **ASU 2014-03 – Topic 815 – Derivatives and Hedging:** Accounting for Certain Receive-Variable, Pay-Fixed Interest Rate Swaps – Simplified Hedge Accounting Approach
- **ASU 2014-07 – Topic 810 – Consolidation:** Applying Variable Interest Entities Guidance to Common Control Leasing Arrangements

An entity seeking to apply the alternative accounting approaches will determine if it is nonpublic by referring to the definition of a public entity in the ASC. A public business entity is defined as one that:

- Is either required to, or does, provide financial statements to the SEC, or is required by the Securities and Exchange Act of 1934 to file its financial statements with another regulatory agency.
- Is required to provide financial statements to a foreign regulator in order to sell or issue securities that are not restricted from transfer by contract.
- Is an issuer of, or conduit bond obligor for, securities traded, listed, or quoted on an exchange or an over-the-counter market.
- Is required by law, contract, or regulation to make U.S. GAAP financial statements available to the public and has one or more securities that are not restricted from transfer by contract.

A nonpublic entity deciding to adopt one or more of the alternative accounting approaches will do so by making an election for financial reporting purposes. This consists of providing a disclosure, in the period in which the alternative is adopted, indicating the entity's decision to adopt the standard. Since a nonpublic entity is not required to adopt any or all of these alternatives, a decision to do so is an account-





ing policy. This will be disclosed each period in the Summary of Significant Accounting Policies provided in the footnotes to the financial statements.

## Goodwill

Prior to ASU 2014-03, the method of accounting for goodwill for all entities required that goodwill be tested for impairment at least annually. It is required to be tested at the reporting unit level. A company involved in multiple business combinations may have multiple reporting units, each of which might include goodwill that would be tested separately for impairment.

- An entity has the option to perform a qualitative assessment to determine it is more likely than not that goodwill has been impaired. If so, the entity will perform the first of a two-step process.
- The first step involves comparing the carrying value of each reporting unit to its fair value. If the fair value is lower, the second step is required.
- In the second step, an impaired value for goodwill is determined by applying the principles for recognizing a business combination as of that date.

Under the alternative accounting approach, goodwill is amortized on a straight-line basis that begins as of the beginning of the period in which the alternative method is elected or as of the date on which the goodwill is recognized, whichever is later. Goodwill is to be amortized over a 10 year period, although an entity may use a shorter period upon demonstration that a shorter life is more appropriate.

The alternative approach also allows an entity to choose between assessing goodwill for impairment at the reporting unit level or at the entity level. An election to that effect is required to be made as a

significant accounting policy, indicating at which level goodwill will be tested for impairment.

Goodwill is required to be assessed for impairment only upon the occurrence of a triggering event or condition that indicates that it is more likely than not that the carrying value of the entity or reporting unit exceeds its fair value. The entity may then either use a qualitative assessment to determine if a quantitative assessment is necessary, or may proceed directly to the performance of a quantitative assessment.

When a qualitative assessment is performed:

- If a qualitative assessment is not performed, or if it indicates the possibility of impairment, a quantitative test is performed.
- The entity's, or reporting unit's, carrying value is compared to its fair value.
- If the carrying value is greater, the impairment will be the difference.

## Interest Rate Swaps

Interest rate swaps have become very commonly used by nonpublic business enterprises. The most common application has been when an enterprise has obtained financing that bears interest at a variable rate, under which the entity will receive variable payments from a counterparty, to offset the variable payments being made on the debt instrument, and make fixed payments to the counterparty, essentially converting the variable rate liability to one with a fixed rate.

Due to the difficulty of qualifying for and applying hedge accounting, the FASB has provided an alternative accounting approach for nonpublic entities.







### **Qualified Interest Rate Swaps**

The simplified approach may be applied to certain interest rate swaps that involve receiving a variable rate payment and making a fixed rate payment, entered into to eliminate fluctuations in the cash flows associated with a variable rate obligation. It must also meet certain conditions related to:

- **Interest rate index** – The variable rates in both the hedged obligation and the interest rate swap must be determined using the same index.
- **Terms** – The swap should be what is often referred to as a “plain vanilla” interest rate swap with terms that mirror those of the hedged obligation.
- **Settlement dates** – The dates on which the swap is settled or repriced must be the same, or within a few days, of the comparable dates associated with the hedged obligation.
- **Fair value** – The fair value of the swap must be zero, or close to zero, at the swap’s inception.
- **Notional amount** – The notional amount of the swap should be equal to the principal amount of the hedged obligation.
- **Interest payments** – During the term of the swap, all interest payments on the hedged obligation must be designated as hedged.

### **Electing and Applying the Simplified Hedge Accounting Approach**

A nonpublic entity may elect to apply the simplified hedge accounting approach to any interest rate swap for which all of the required conditions are met. In doing so, the entity may assume that there is no ineffectiveness and that the swap, therefore, is perfectly effective. As a result, the debt obligation will be accounted for as if it were a fixed rate obligation.

When the simplified hedge accounting approach is elected, the interest rate swap may be measured at its settlement amount instead of its fair value. The settlement amount is the present value of the estimated future cash flows without considering nonperformance risk, which is a factor considered in measuring the fair value.

In remeasuring the interest rate swap to its settlement value each period, a portion of the differential will be recognized as an adjustment to interest expense in order to make the interest charge comparable to that which would be incurred on a fixed rate obligation. The remainder of the change will be recognized in other comprehensive income and aggregated in accumulated other comprehensive income.

### **Other Disclosures**

An interest rate swap that is accounted for applying the simplified hedge accounting approach is still subject to all of the same disclosure requirements that are required of derivatives and hedges when the simplified hedge accounting approach is not applied. When the swap is valued at its settlement amount, rather than its fair value, however, the settlement value will be substituted wherever a disclosure calls for the fair value.

### **Transition to the Simplified Hedge Accounting Approach**

The simplified hedge accounting approach will be effective for annual periods beginning after December 15, 2014, with early adoption permitted. When an entity elects to adopt the simplified hedge accounting approach, there are two alternatives for making the transition.

The entity may apply a modified retrospective approach in which it is applied to the period of change and future periods, or the full retrospective approach in which it is applied retrospectively to all periods presented.

### **Variable Interest Entities**

Many nonpublic entities enter into relationship with commonly owned lessor entities as a means of providing a benefit to owners related to income taxes, estate planning, or legal liability issues. In many cases, the lessor would be considered a VIE under GAAP, requiring extensive and potentially costly analysis, coupled with the preparation of consolidated financial statements. An alternative





accounting approach available to nonpublic entities is designed to exempt certain lease arrangements from the provisions related to VIEs.

**Accounting for Common Control Leasing Arrangements**

A nonpublic entity that is a lessee may elect not to apply the requirements associated with VIEs to relationships that meet certain requirements.

- ① **Common control** – The reporting entity and the lessor must be under common control.
- ② **Lease** – The reporting entity is the lessee in a lease with the lessor entity.
- ③ **Relationship** – Substantially all activities between the reporting entity and the commonly owned lessor relate to leasing activities.

In addition, if the reporting entity is either guaranteeing an obligation of the lessor, or is providing collateral for an obligation of the lessor, the principal amount of the obligations may not exceed the value of the leased asset as of the inception of the guaran-

tee or collateral arrangement.

The election applies to all current and future lease relationships with commonly controlled lessors that meet the requirements for the exemption from VIE accounting.

**Disclosures**

The lessee would remain subject to any disclosure requirements in GAAP, other than those that are specific to VIE relationships, such as related party disclosures. In addition, when a reporting entity does not evaluate a qualifying lease relationship to determine if it is a VIE, certain specific disclosures are.

- **Liabilities** – Any liabilities of the lessor that may require the lessee to provide subordinated financial support to the lessor.
- **Other Exposures** – Any of the lessor's arrangements that are not recognized in the lessor's financial statements that may also require the lessee to provide subordinated financial support to the lessor. ●



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# The Good, The Bad And The Ugly

## New Streamlined OVDP Procedure

By Gary H. Kuwada, CPA, Esq.  
GARY H. KUWADA A Professional Law Corp.

**As** of July 1, 2014 there has been a seismic shift in the “streamline” OVDP procedure and in the OVDP program in general. The changes are beneficial for some taxpayers (more taxpayers will qualify for the reduced 5 percent OVDP penalty rate on offshore assets) and bad for others (the 27.5 percent penalty can increase to 50 percent for taxpayers whose accounts are in certain listed banks). However in general there seems to be an understanding by the IRS that the Pre-July 1, 2014 OVDP program was too harsh on taxpayers who did not use their offshore bank accounts to hide unreported income.

### THE GOOD - MORE TAXPAYERS QUALIFY FOR THE STREAMLINED 5 PERCENT PENALTY

The Streamlined Filing Compliance Procedure now applies to US Residents and Citizens not just to Non-Residents. There are no tax amount restrictions as there was under the old rule that could cause a higher risk of rejection and now there is no need to file a risk assessment with the IRS as part of the streamline package.

The new streamlined procedure requires the taxpayer to state under penalty of perjury that their failure to disclose their financial assets and file the appropriate information returns (FBAR, Form 3520, Form 5471 etc.) was not willful, or due to inadvertence, negligence or mistake of the law. Sounds like more tax mumbo jumbo right?

### WHAT DOES NON-WILLFUL CONDUCT, NEGLIGENCE, INADVERTANCE OR MISTAKE OF LAW MEAN?

The key decision your client must make is whether or not their failure to file information returns was willful. Although the IRS has not officially provided examples of what non-willful conduct is, a good rule



of thumb is to ask your client why they set up the foreign account in the first place.

If for example the foreign account was established by relatives in the foreign country and was not used to divert unreported income it sounds like a good streamline case.

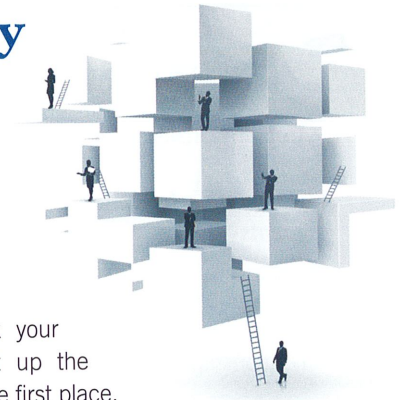
If however your client opened the account to hide income that should have been reported in the US it would be difficult to blame the failure to file the foreign information returns on negligence, inadvertence or mistake of law. The IRS can argue that your client willfully failed to file the information return to hide the diverted unreported income. It's a facts and circumstances determination.

The new streamlined procedure requires the taxpayer to amend only the 3 most recent filed tax returns and 6 years of unfiled FBARS and foreign information returns not 8 years under the old program. In addition the IRS will not assert the 20 percent accuracy related penalty to the tax deficiency reported on the amended tax returns.

For eligible U.S. taxpayers residing in the United States, the only penalty under the streamlined procedures will be offshore penalty equal to five [5] percent of the foreign financial assets. For eligible U.S. taxpayers residing outside the United States or Non-Residents the streamlined procedure even gets better; all penalties will be waived under the streamlined procedures.

### THE BAD - NO RETROACTIVE REQUESTS TO COME UNDER THE NEW STREAMLINED PROCEDURES FOR PAST PARTICIPANTS OF THE OVDP PROGRAM

The IRS will not allow taxpayers who previously filed OVDPs and finalized their case (by executing a







Form 906 settlement agreement counter signed by the IRS) prior to July 1, 2014 to amend their OVDPs to qualify for the new procedure i.e. you can't put the Genie back into the bottle.

However there are some transitional rules for taxpayers who did not finalize their OVDP cases as of July 1, 2014 with the IRS to opt out and if they qualify to participate in the new streamlined procedures.

Taxpayers who filed so called quiet disclosures by filing delinquent FBARS and amended returns to include foreign income can also now participate in the streamlined program.

### **THE UGLY – NO PROMISES REGARDING CRIMINAL PROSECUTION UNDER THE STREAMLINE PROCEDURES**

The taxpayer essentially gets a no criminal prosecution promise from the IRS when they file an OVDP. That's the benefit the taxpayer receives for paying the OVDP penalty rate of 27.5 percent of certain foreign assets.

Unfortunately the taxpayer receives no such assurance when they file under the streamline procedure. Therefore it's critical to be selective and decide under the facts and circumstances of your client's case which program is the best choice. You must balance the risk of criminal exposure with the reward of a substantially reduced penalty rate. Once you select a program either the OVDP or streamline and file your package with the IRS your clients are prevented from making a change to the other program.

### **MORE UGLY - MONEY UP FRONT**

Beginning July 1, 2014 full payment of the OVDP penalty must be made with the OVDP package including full payment of the tax, penalty and interest on the amended tax returns. In the case of the streamline procedures the 5 percent penalty applied to foreign financial assets must be paid up front in addition to the tax and interest calculated on the amended returns. There is no accuracy related penalty applied to the amended returns for streamlined participants.

### **CAVEAT EMPTOR**

In law there is a Latin term called caveat emptor in English it means "Let the buyer beware". The new streamline procedure has been in place for six weeks. As you may recall the OVDI program evolved slowly from its inception in 2009. It took time for the IRS to provide guidance to practitioners in the form of the Question and Answers on the IRS website. Similarly as time goes by and more streamlined cases are processed the IRS will provide practitioners with specific guidance. Until then we are all going to have to fly by the seat of our pants and use our best judgment.

For now at least you should be conservative when recommending a course of action to your clients. The OVDP requirement of full disclosure and willingness to cooperate with the IRS still applies to the streamline procedure. The consequences of a rejected streamline case are a possible criminal referral and even if the case is not referred criminally the sting of substantial civil penalties that can exceed the value of the foreign financial account or asset. The risk can be described as a small chance that something really bad can happen.

### **FINAL THOUGHTS**

Please consider calling your clients that previously inquired about the OVDP program but were hesitant to participate because of the high penalty rates. Tell them about the revised streamline procedure and penalty rates.

Notify your clients the IRS is forming Foreign Account Tax Compliance Act (FATCA) audit groups that will begin examinations of US taxpayers with undisclosed foreign financial assets and income. Audits of US persons will begin as soon as the information is provided to the IRS by Foreign Financial Institutions. My friends, the landscape has changed dramatically. Taxpayers must come into compliance now or suffer substantial penalties and possible criminal exposure later; for a 5 percent penalty and no accuracy related penalty applied to the income tax deficiency it just might be worth it. 🌍

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# The Other Side of Cost Segregation



By Arnie Kim, CPA  
Kim & Kim, CPAs

*Cost segregation* is generally known to be beneficial, but it is not so in every case. A must-read before leaping would be the story of Peco Foods explained by John M. Malloy, Craig J. Langstraat and James M. Plecnik in *The Tax Advisor* published April 1, 2014.

The cost segregation is certainly beneficial to the segregation service provider, but not necessarily to the building owner. Anybody contemplating cost segregation would need to put the project to at least two tests: (1) applicability of 26 IRC Section 1060(a) and (2) what-if analysis through NPV calculations. The first one is an external hurdle, and the second one is an internal hurdle.

First, Section 1060(a) reads:

"If in connection with an applicable asset acquisition, the transferee and transferor agree in writing as to the allocation of any consideration, or as to the fair market value of any of the assets, such agreement shall be binding on both the transferee and transferor unless the Secretary determines that such allocation (or fair market value) is not appropriate."

The external hurdle can be passed either by settling in a safe harbor or reducing the number of segregate items in a building. A safe harbor will guarantee the legitimacy of the segregation, but reducing the number won't.

There are two safe harbors to pass the hurdle of Section 1060(a): doing the cost segregation before starting initial use of the building and enumerating the segregated costs in the purchase agreement of a used building.

If you have already depreciated the whole building at least once, there is no safe harbor for you. In this

case, you can only use Form 3115, which is subject to approval of the IRS. The case of Peco Foods insinuates that the probability of getting the approval dwindles if there are too many items in a building. However, there is no guarantee of approval even if you segregate into a handful of items. Your conscience and reasonability should be delivered somehow for the approval of Form 3115. The cost segregation service provider would guarantee the approval, but it may be unclear whether such a guarantee would include refund of the segregation fee and reimbursement of your other costs, e.g. accounting and analyses expenses, to implement the idea.

Second, the building owner must form and run an NPV model to determine if there really is a tax benefit. It is questionable if the provider-supplied NPV model, if any, has sufficient features and functions to handle all the necessary information in the following simplified example:

- ① Cost segregation service fee: \$20,000
- ② Additional tax preparation fee for depreciation setup and Form 3115: \$2,000
- ③ Expected number of years to use the building: 5 years
- ④ Total cost of the building: \$8,000,000
- ⑤ Land portion of the building: \$3,000,000
- ⑥ Useful life 39 year portion of segregated cost: \$2,500,000
- ⑦ Useful life 15 year portion of segregated cost: \$2,500,000
- ⑧ Tax bracket for the 4 years during which the building is used: 35%
- ⑨ Selling price of the building after 5 years: \$10,000,000
- ⑩ Tax bracket for the last year when the building is sold: 40%
- ⑪ Cost of the capital of the building owner: 8% (after tax)





The NPV analysis fee is not included, because it will be a sunk cost. With this information, the cash flow can be calculated within the following spreadsheets: First, we need to find the depreciation differences in

each year. The purpose of Schedule 1 is to show the mechanism only, so actual segregation will involve many other classes of assets.

### Schedule 1: Depreciation Difference (put to service: Jan 1 of Year 1)

Year	If Segregated			If Not	Difference a-b
	Building 39 SL (a1)	Machinery 15 DDB (a2)	Total (a) a1+a2	Building (b) 39 SL	
1	61,432	125,000	186,432	122,863	63,569
2	64,103	237,500	301,603	128,205	173,398
3	64,103	213,750	277,853	128,205	149,648
4	64,103	192,375	256,478	128,205	128,273
5	64,103	173,138	237,241	128,205	109,036
<b>Total</b>	317,844	941,763	1,259,607	635,683	623,924

The total line will be used for Schedule 2, showing what will happen at the end of the last year of holding this building. The other lines will be used for Schedule 3, showing cash flow of each year. One factor extremely important to remember while reading Schedule 2 is that shorter life assets will not

be subject to depreciation recapture if the holding period is elongated, as they will have been disposed of so ignored in the calculation of depreciation recapture. This means that cost segregation is more useful when the building owner plans to own the building for a longer time.

### Schedule 2: Tax disadvantage after 5 years, when the building is sold, caused by segregation

If Cost Segregated	Land	Building	Machinery	Total	Tax
Purchase cost	3,000,000	2,500,000	2,500,000	8,000,000	
Accum. Depr after 5 yrs		317,844	941,763	1,259,607	
Book value after 5 yrs	3,000,000	2,182,156	1,558,237	6,740,393	
Sale price after 5 yrs	4,450,779	3,237,431	2,311,790	10,000,000	
Capital Gains	1,450,779	1,055,275	753,553	3,259,607	
Gains subject to 23.4% tax	1,450,779	737,431	-	2,188,210	512,041
Gains to 28.4% tax		317,844		317,844	90,268
Gains to grad tax (40%)			753,553	753,553	301,421
<b>Tax total</b>					<b>903,730</b>

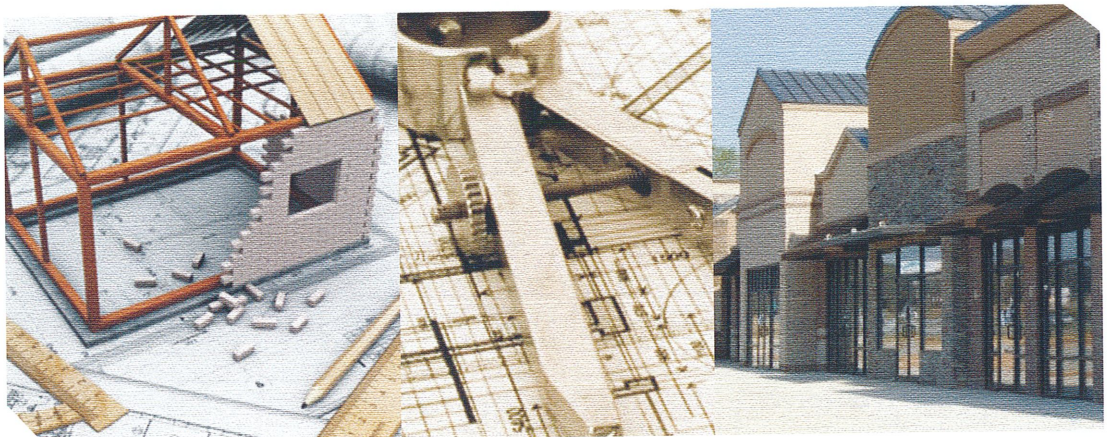


If Not Segregated	Land	Building	Machinery	Total	Tax
Purchase cost	3,000,000	5,000,000	-	8,000,000	
Accum. Depr after 5 yrs		635,683	-	635,683	
Book value after 5 yrs	3,000,000	4,364,317	-	7,364,317	
Sale price after 5 yrs	4,073,698	5,926,302	-	10,000,000	
Capital Gains	1,073,698	1,561,985	-	2,635,683	
Gains subject to 23.4% tax	1,073,698	926,302	-	2,000,000	468,000
Gains subject to 28.4% tax		635,683	-	635,683	180,534
Gains to graduated tax					-
<b>Tax total</b>					<b>648,534</b>
Tax disadvantage, to enter "Year 5" of the Schedule 3					<b>255,196</b>

Schedule 3, Showing cash flow contains information in Schedules 1 and two

**Schedule 3:** Cash Flow

Year	Cash Layout	Additional Depreciation	Tax Rate	Tax Saving	More Tax	Cash Flow
0	(22,000)		35%	7,700		(14,300)
1		63,569	35%	22,249		22,249
2		173,398	35%	60,689		60,689
3		149,648	35%	52,377		52,377
4		128,273	35%	44,896		44,896
5		109,036	40%	43,614	(255,196)	(211,582)
<b>Total</b>		<b>623,924</b>				<b>(45,671)</b>







Schedule 4 (NPV) shows that this sample project is not recommendable, but it does not mean that cost segregation idea itself is doubtful. As mentioned in the heads of the previous schedules, this simulation is to show the procedure of calculation only. When

the assumptions are changed and many shorter life assets are involved, there could be substantial benefit. One crucial point is that it may be unethical to recommend any cost segregation without a serious NPV analysis.

**Schedule 4:** NPV

Year	Cash Flow (CF)	Cost of the Capital	Present Value	
			Function	Amount
0	(14,300)	8%	$CF/(1+r)^0$	(14,300)
1	22,249	8%	$CF/(1+r)^1$	20,601
2	60,689	8%	$CF/(1+r)^2$	52,031
3	52,377	8%	$CF/(1+r)^3$	41,578
4	44,896	8%	$CF/(1+r)^4$	33,000
5	(211,582)	8%	$CF/(1+r)^5$	(143,999)
	NPV			(11,089)

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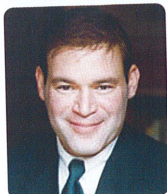
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## Get Ready for 2015 Employment Law Changes!



By Jonathon Kaplan, Esq. / Partner  
Kaplan Weiss, LLP

2015 is upon us and major changes to employment laws are taking effect. CPAs who perform payroll functions or advise business clients should prepare for changes to wage and hour laws, sick leave benefits and health insurance requirements.

### Wage and Hour Laws

On the Federal level, new minimum wage laws are effective for Federal contract workers. In California, new laws increase employers' wage and hour obligations.

#### ***Higher Minimum Wage for Federal Contract Workers***

In 2014, President Obama signed an executive order to raise the minimum wage for federal contract workers from \$7.25 an hour to \$10.10. The order is effective January 1, 2015 and applies only to new or renewed contracts. The order raises minimum wages for tipped employees and prohibits contractors from paying disabled workers sub-minimum wages. The minimum wage will be increased annually to reflect inflation changes in the Consumer Price Index. Advise clients to update their wage posters, which are mandatory under the Fair Labor Standards Act, to reflect these changes.

#### ***Greater Liability for Employers That Use Staffing Agencies***

California Labor Code section 2810 has been amended to create a new section 2810.3. The new law, effective January 1, 2015, imposes liability on employers who contract for labor, holding companies accountable for wage-and-hour violations when they use staffing agencies or other labor contractors to supply workers.



Employers using staffing agencies or labor contractors will now "share with the labor contractor all civil legal responsibility and civil liability for all workers supplied" to the company. In other words, if a staffing agency or labor contractor fails to pay all required wages or fails to provide workers' compensation coverage, liability can be imposed on the "client employer."

Counsel your clients to seek legal advice and be especially careful when hiring through staffing agencies. Employers should scrutinize agencies before hiring employees from them to ensure their compliance with all applicable employment laws. Employers may want to consider insisting upon including indemnification provisions in their contracts for labor services to protect their own bottom lines.

#### ***Waiting Time Penalties***

Current California law subjects any employer who pays any employee less than the applicable minimum wage to civil penalties, payment of restitution or wages, and payment of liquidated damages to the employee. Current law also imposes a penalty on an employer who willfully fails to pay an employee all owed wages immediately upon termination. Labor Code section 1197.1 has been amended to make it easier for the Labor Commissioner to enforce these existing penalties. California Labor Code section 203 has also been amended to provide a waiting time penalty if unionized theatrical and concert venue employers violate any agreed upon timeframe for payment of final wages contained in a collective bargaining agreement.





### ***The “Child Labor Protection Act”***

The Child Labor Protection Act of 2014, creates new Labor Code section 1311.5, expands protections and provides additional penalties for violations of California laws governing employment of minors. The law tolls the statute of limitations for claims that arise from violations of employment laws until the minor reaches 18 years of age. It authorizes individuals who are discriminated or retaliated against for alleging a child labor law violation to recover treble damages in addition to other available legal remedies. The new law imposes a penalty of \$25,000 to \$50,000 for each violation of child labor laws involving minors 12 years of age or younger.

#### ***Protections Against Retaliation***

California Labor Code section 98.6 clarifies that the \$10,000 penalty against an employer who discriminates or retaliates against any employee that complains of Labor Code violations will be awarded to the employee or employees who “suffered the violation.”

#### ***More Time to Recover Liquidated Damages***

California Labor Code section 1194.2 has been amended to provide that a lawsuit seeking to recover liquidated damages for minimum wage violations may be filed any time before the expiration of the statute of limitations that applies to the underlying wage claim, which is three years. The law was passed in response to recent court cases that had held liquidated damages claims must be filed within one year.

#### ***Prevailing Wages***

Several bills were passed into law this year relating to “prevailing wages.” Prevailing wages apply to employers who contract with the government for public works projects. It requires them to pay employees “prevailing wages,” which are generally much higher than minimum wage.

One of the new bills amended California Labor Code section 1720 to expand the scope of work to which prevailing wage laws apply. Another added section 1784 to the Labor Code, which now allows a

contractor to bring an action against “hiring parties” to recover any increased costs (including labor costs, penalties and legal fees) incurred as a result of a determination that the work performed on the project was a covered public work and subject to prevailing wage laws.

### **Sick Leave Benefits**

#### ***The “Healthy Workplaces, Healthy Families Act of 2014”***

The “Healthy Workplaces, Healthy Families Act of 2014” goes into effect July 1, 2015. This major piece of legislation, requires California employers to provide paid sick leave benefits to their employees. Employees who work 30 or more days within a year will be entitled to accrue paid sick days at a rate of “no less than one [1] hour for every 30 hours worked.” This means that a full-time employee working 40 hours per week will be entitled to accrue up to 8.6 days of paid sick time per year. Employers can choose to limit the employee’s annual use of paid sick leave benefits to 24 hours or 3 days per year and may also choose to limit the annual amount of accrued paid sick leave to 48 hours or 6 days per year. In other words, although a full-time employee can accrue up to 8.6 paid sick days, the employer may cap the amount of paid sick benefits used to 24 hours or 3 days and limit the total annual accrual amount to 48 hours or 6 days. The rate of pay for sick leave is the employee’s regular hourly wage, including commission or piece rate pay. Employers must pay out sick leave benefit payments to employees no later than the payday for the next payroll period after sick leave was taken. Employers will be required to provide written notice on the designated pay dates that sets forth the amount of paid sick leave benefits available to the employee on either the itemized wage statement or a separate written document. There are various exclusions in the law and specific provisions apply to an employer who already provides paid time off.

### **The Affordable Care Act**

Many of the requirements of the Affordable Care Act took effect in 2014. Beginning in 2015, new Employer Shared Responsibility provisions and information reporting requirements take effect. →





### **Employer Shared Responsibility Provisions**

Originally scheduled for January 1, 2014, the Employer Shared Responsibility provisions of the Affordable Care Act take effect on January 1, 2015. Employers with 100 or more full-time or full-time equivalent employees who do not offer affordable health insurance that provides minimum value to their full-time employees and dependents may be required to pay an assessment if at least one of their full-time employees is certified to receive a Premium Tax Credit in the individual Health Insurance Marketplace.

### **Information Reporting on Health Coverage by Employers**

Information reporting will be required of employers with 50 or more full-time or full-time equivalent employees regarding the health coverage they offer to their full-time employees. In addition, new information reporting by issuers, self-insuring employers, and other parties that provide health coverage also take effect in 2015.

Meet with your clients now to help them understand these important changes to State and Federal employment laws. Preparing your clients to ensure their compliance with these laws as they take effect can help them minimize employment disputes and potential lawsuits, avoid penalties and obviate tax liabilities. ☺

Jonathon Kaplan is a partner with the Los Angeles law firm Kaplan Weiss LLP. He specializes in the practice of employment law and was a speaker at KACPA's 2014 annual retreat. He can be reached at (213) 553-4550 or [jonathon.kaplan@kaplanweiss.com](mailto:jonathon.kaplan@kaplanweiss.com)



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# Credit Insurance

## 신용보험



By Charlie Chin / President  
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즉, 판매자가 상품 또는 용역을 별도의 담보없이 제공하였다가 외상구매자 또는 용역을 제공 받는자의 대금지급 불능이나 이행지체로 인한 예상치 못한 손실을 얻게 되는데 이러한 손실을 보상받기 위하여 스스로 보험 계약자 겸 피보험자가 되어 가입하는 '자기를 위한 보험'이 바로 크레딧(credit)보험이다. 동보험은 어카운트 리시버블(account receivable) 보험, 대손금 (bad debt) 보험 혹은 크레딧 위험(credit risk) 보험이라고도 불리운다.

일반적으로 기업의 수취계정은 자산의 30%~40% 정도를 차지하고 있으며, 이를 문제없이 관리하는데 소요되는 비용 또한 작은 규모가 아니어서 기업의 재무를 담당하고 있는 부서에서는 관련 비용과 위험을 최소화하는 위험관리가 가장 중요하므로 기업의 수취계정에 손해가 발생할 경우 보험계약 내용에 따라 보험회사로부터 적절한 보상을 받도록 이러한 위험을 전가하는 것이 필요하다.

더불어 동보험을 가입하게 되면 재무 건전성이 향상되어 신용도가 상승되므로 유리한 조건으로 자금 조달이 용이해지고, 부실채권 발생 감소와 채권 회수 비용 절감 및 대규모 손실 예방 등이 가능해진다. 특히, 크레딧 보험회사가 외상구매자의 신용을 사전에 평가함과 동시에 계속해서 신용상태를 모니터링하여 신용 위험관리가 가능해지고, 이로인해 신규 거래처 확보가 용이해져 구매자 증가로 매출이 증대되는 효과를 얻게 된다.



크레딧 보험의 보험료는 보험계약자의 거래처 즉, 외상구매자에 대한 신용도가 가장 중요한 요인으로 작용하며, 보험가입 방식, 거래되는 상품의 종류, 경제 전반의 움직임 등이 산정 요소로 작용한다. 보험료는 일반적으로는 매출의 0.3%에서 0.7% 정도로 개별 거래처에 대한 신용거래 한도가 정해지며, 매출이 증가할 경우 동 한도를 조정하기도 한다.

동 보험은 매우 전문적이어서 취급하는 보험회사도 Euler Hermes, Atradius, Coface 등 몇몇 회사만이 취급하고 있다. 보험가입 방식은 기업 전체의 매출에 대하여 가입하는 방식과 보험가입이 필요한 일부 대형 거래처에 제한하여 가입할 수도 있다. 또한, 미국 이외의 지역의 고객과 거래하는 경우에는 관련 국가에의 수출 부분에 대하여만 제한하여 가입하기도 한다. 무엇보다도 보험계약 방식을 선정할 때에는 관련 보험비용과 신용비용에 대하여 전문가와 상의하여 결정하는 것이 중요하다 할 수 있다.

크레딧 보험은 일반 보험의 효용에 더하여 보험가입 거래처의 신용도나 기타 신용관련 징후 등에 대하여도 보험회사와 지속적인 채널을 갖게 되므로 기업의 재무담당 부서에서 해야할 많은 신용점검에 대하여 보험회사의 도움을 받을 수 있어 기업의 신용관리 기능을 강화하는 효과가 있다. T. (877) 988-1004





# When Should You Hire A Criminal Defense Counsel?



By Pio S. Kim, Esq / Partner  
Lim, Ruger & Kim, LLP

**The** obvious answer is as soon as you suspect that you might be investigated. Nothing damages the prospect of successfully defending against or minimizing criminal exposure more than failing to timely hire defense counsel. However, defense counsel routinely encounters clients who have waited too late. In particular, there is a distinct tendency among Koreans and Korean-Americans to wait until the government files a criminal complaint or an indictment to seek criminal representation. All too often they assume that if they explain their side of the story to the investigating agent on their own, they would not be prosecuted. Nothing can be further from the truth.

A general principle of criminal defense is that the less the government knows, the better it is for the target of the investigation (the “client”). Another principle of criminal defense is that the sooner defense counsel masters the facts, the better it is for the client. Hiring defense counsel at the earliest stages of the investigation enables the client to best satisfy the two principles.

## **The Less The Government Knows, The Better It Is For The Client**

It is the burden of the government to prove beyond a reasonable doubt its case against the client.

Therefore, the less the government knows, the better it is for the client. However, the client often has to rely on CPAs and other professionals to prepare a defense. This creates the danger that the government may compel these professionals to disclose the information they receive from the client and otherwise use them against the client. Hiring defense counsel eliminates that danger. When a taxpayer faces an audit or investigation which may entail a questioning of his CPA by the government, the taxpayer should hire an attorney and have that attorney retain the CPA to assist the attorney. This way, any conversation between the tax payer and the CPA and any document prepared by the CPA will be protected from disclosure by the attorney-client privilege. Hiring an attorney is particularly attractive to a CPA because it allows the CPA to freely communicate with the client and produce work products without the fear that the work will be subject to the government’s scrutiny.

Further, hiring an attorney can prevent unintended, or partial and therefore misleading, disclosure to the government. One of the critical times in a criminal investigation is when the government performs interviews of the client’s employees during a search of the client’s business. The problem with these interviews is that the employees can be disoriented, if not shocked, by the search and provide ambiguous and misleading statements. Even though they don’t have all the facts, the employees feel compelled to answer the questions put to them. The easiest way to prevent this is to let the employees know that the client’s business has hired an attorney. The ethics rules for the lawyers prohibit the lawyers (including prosecutors) and their agents from contacting a person or persons represented by an attorney. Law enforcement officers who often work under the guidance of prosecutors will immediately cease their attempts to interview the employees of a





business when notified that the business is represented by a lawyer.

### The Sooner Defense Counsel Masters The Facts, The Better It Is For The Client

Once the government files an indictment or a criminal complaint, defense counsel has very little room to maneuver. Because the government is already wedded to a particular view of the client, and has publicly committed to criminally prosecuting the client, it is exceedingly difficult for defense counsel get any concessions from the government. However, defense counsel can be much more effective if hired early.

The client is best served when defense counsel can persuade the government not to institute a criminal case against the client, or agree to bring lesser charges than the government intended. Defense counsel accomplishes this by mastering the case before the government and presenting the facts and legal issues to the government in the light and/or sequence most favorable to the client.

When hired early enough, defense counsel can discover facts or factual nuances that the government may miss, clarify inconsistencies between recollections of witnesses, and formulate and cement a narrative that minimizes the client's criminal exposure. In other words, defense counsel is in a better position at the early stages to craft a narrative that highlights the gaps or deficiencies in the knowledge of the government in order to convince the prosecutor that pursuing the case is not worthwhile, at least in the way the prosecutor initially envisioned. Defense counsel may also highlight any legal difficulties the prosecutor might have.

When presented with the difficulties in a stark way by defense counsel, prosecutors often rethink their willingness to devote scarce time and resources to a potentially difficult case, especially if they have not yet formed strong opinions. Obviously, defense counsel is in position to do this effectively only if the client is prudent enough to hire him as soon as the client suspects that he might be or will be under investigation. ●

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# Is Fraud A Cost of Doing Business?

By Kenny Kang, M.S., CPA, CGMA, CFE

## INTRODUCTION

As a business owner, how would you feel if 5% of your hard earned revenue is lost due to fraud? As an external auditor, do you feel comfortable issuing an unqualified opinion if your audit might not detect fraud loss which may be material to the financial statements?

According to the 2014 Report to the Nations (or the Report), issued by the Association of Certified Fraud Examiners, losses from fraud total about 5% of annual revenues for a typical company. If the five percent loss is applied to 2013 estimated Gross World Product, this translates to a potential projected global fraud loss of nearly US\$3.7 trillion<sup>1</sup>. Unfortunately, most companies are not aware of occupational fraud until the fraud has been committed against them, and some organizations view fraud merely as a cost of doing business.

## COST OF OCCUPATIONAL FRAUD

The 2014 Report to the Nations was compiled based on global data collected from 1,483 cases submitted by Certified Fraud Examiners all over the world. These cases were classified into three general types of occupational frauds: (1) Asset Misappropriation, (2) Corruption, and (3) Financial Statement Fraud. The aggregated value of these types of losses due to fraud was in excess of US\$ 3 billion. The Report also indicates that a median loss of \$145,000 was caused by a single occupational fraud. About 326 reported cases caused losses of more than US\$1 million. From the time the fraud commenced until its detection, the median duration of this activity was 18 months.

Victim organizations were private companies, public companies, governmental agencies and not-for-profits, and the related median losses were



\$160,000, \$200,000, \$90,000 and \$108,000, respectively. The Report further drills down into the median loss by industry. It indicates that real estate, wholesale trade, manufacturing, and retail experience have median losses of \$555,000, \$375,000, \$250,000, and \$54,000, respectively<sup>1</sup>.

## THE FACES OF THE PERPETRATORS

So who is committing fraud in a company? It was reported that all levels of personnel, ranging from sales to upper management, have committed fraud. According to the Report, Executive/Upper Management caused median losses of \$680,000; Board of Directors and Finance Departments - \$500,000, Warehouse/Inventory - \$245,000; Purchasing - \$166,000 and Sales \$80,000. In general, the higher the perpetrator's level of authority, the greater the fraud loss that tends to be suffered by the victim organization.

Another alarming statistic is 87% of the perpetrators have never been charged or convicted<sup>1</sup>. A typical example would be in a medical or dental office setting. A doctor or dentist would be seeing patients six days a week. However, the typical complaint from the doctors or dentists would be: "I know that I am making money, but I don't see that in my bank. Why?" Most of these cases are assets misappropriation, or in legal term, embezzlement, by the trusty bookkeepers who have been with the offices for at least 5 years. When the fraud is discovered and the facts are presented to the perpetrator, the bookkeeper would cry, claiming that the money was "a loan and I intend to repay the owners ..." The owners' reaction would typically be to be sorry for the perpetrator and respond, "Oh, I have known her for a long time. She has a family and must have made a honest mistake. I won't press charges against her." Then, the bookkeeper would move to the next town and get hired by another local medical





or dental office. Hence the opportunity to repeat the criminal activity is provided to the perpetrator.

## DETECTION & PREVENTION

Dr. Donald R. Cressey (April 27, 1919 – July 21, 1987) was an American penologist, sociologist and criminologist who developed the famous “Fraud Triangle.”<sup>2</sup> This Fraud Triangle was adopted into the Statement of Auditing Standards (No. 122) by the American Institute of CPAs under the Audit & Attest Standards<sup>3</sup>. The Fraud Triangle has three components: (1) Pressures / Incentives, (2) Opportunities, and (3) Attitudes and Rationalizations. These components assist us in understanding the red flags exhibited by perpetrators and enhance fraud detection and prevention.

While it is understood that not all fraud schemes are created equal, there are common weaknesses that exist in the victim organizations. The most common weakness is the lack of adequate internal controls, followed by a lack of management review, and then the ‘over-riding’ of existing controls. “Tone at the top”, most often as demonstrated by a lack of personal and business ethics exhibited by supervisors to their employees, also contributes to a poor employee attitude towards maintaining the integrity of the internal control environment.

## REFERENCE

- <sup>1</sup> 2014 Report to the Nations, Association of Certified Fraud Examiner.
- <sup>2</sup> 2014 U.S. Fraud Examiners Manual.
- <sup>3</sup> AU-C §240.A75, “Appendix A—Examples of Fraud Risk Factors” of AU-C §240 - Consideration of Fraud in a Financial Statement Audit, Statement of Auditing Standard No. 122, the American Certified Public Accountants.



Mr. Kang holds a Certified Public Accountant (CPA), Chartered Global Management Accountant (CGMA), and Certified Fraud Examiner (CFE). He received his Master of Science in Accountancy from California State University, Northridge, and Bachelor of Science in Applied Mathematics from University of California, Irvine. Mr. Kang specializes in forensic accounting / litigation support, fraud examination, and general business consulting. His expertise involves US GAAP,

US GAAS and fraud examination. Located in Arcadia, California, Mr. Kang can be reached at [kennykangcpa@yahoo.com](mailto:kennykangcpa@yahoo.com)

While most organizations believe external audits or information technology will detect potential fraud, the Report indicates external audits and IT controls only enable 3% and 1.1% of the initial detection<sup>1</sup>. Stumbling across fraud by accident provides a better initial detection (at 6.8%) than external audits and IT controls combined<sup>1</sup>.

What can we do to prevent future fraud losses? In all honesty, an organization can never reduce fraud loss to zero. However, an organization can conscientiously reduce fraud risk by simply installing a tip hotline, employee background checks, mandatory duty rotations, and periodically reviewing the effectiveness of their internal controls.

## CONCLUSION

It is human nature that fraud always begin with a small amount, and if not caught, the loss continues to snowball. It takes time, money and effort by the victim organizations to recover the money stolen by perpetrators, and many organizations are never fully able to do so. Often the cost to remediate the impact of a fraud exceeds the actual value of the fraud itself. Fraud is costly. Therefore, we need to promote an ethical working environment. One manner of ensuring the integrity of your internal control environment is by testing it through the employment of a competent team of professional experts trained to provide guidance how to strengthen and improve that environment to prevent a fraud from being permitted, or assist you to detect a fraud as soon as it is committed against you. 🌍





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By 안병찬, CPA  
ABC CPAs

**투자자**들이 가장 많은 관심을 가지고 있는 투자대상을 꼽으라면 우선순위에서 빠지지 않는 것이 부동산이다. 부동산에 투자하는 것이 이익을 보장해 주지는 않지만, 지역이 발전하면서 인구가 늘게 되면, 공급부족으로 부동산 가격이 상승된다는 기본적인 이해와 눈에 보이는 투자대상이라는데 일반 투자자들의 마음을 유혹한다. 부동산 가격이 상승하게 되면, 기쁨도 잠시 투자자들은 Capital gain에 대한 세금을 걱정하지 않을 수 없다. 부동산 매매로 발생한 Capital gain에 대한 세금 해결로 가장 많이 권장되는 방법 중 하나가 바로 Sec1031에서 규정하고 있는 Like-kind exchange 이다. 이 규정은 분명한 세금혜택이다.

이와같은 세금혜택 규정에는 그에 합당한 조건이 수반하게 된다. 이런 규정의 올바른 이해와 적절한 적용은 Like-kind exchange에 대단히 중요하며, 이 규정이 폐지되지 않는 한 Like-kind exchange와 관련된 질문과 다양한 이슈 그리고 판례들은 계속 이어질 것이다.

### Like-Kind Exchange 이해

Sec1031(a)(1)과 Reg.§1.1031(a)-1에서는 비즈니스 또는 투자 목적으로 소유하고 있던 자산을 유사목적의 동종자산으로 교환할 경우 Gain 또는 Loss를 인식하지 않는다고 규정하고 있다. 이 규정은 주식, 채권, 어음, 파트너십의 소유권 등의 자산과의 교환일 경우는 해당되지 않는다고 규정하고 있다.<sup>(1)</sup> 반면, 저수지, 배수로, 관수로와 관련된 회사의 주식이 해당 주의 규정에 의해 부동산으로 취급받을 경우는 이 규정의 혜택을 받을 수 있다.<sup>(2)</sup>

IRS Publication 544 에 따르면, 주거주 주택, 자동차 등 개인사용 목적의 자산에 대해서는 Like-Kind Exchange 규정의 혜택을 받을 수 없다. 그러나 Vacation Home 과 같은 주거 부동산의 경우 교환이전 2년 동안 각 해에 2주 이상 임대를 주어왔고, 교환 이후 2년 동안 2주 이상 임대를 주었고, 개인 목적으로의 사용 회수가 작았다면, 사업 목적으로 분류되어 Like-Kind Exchange로 간주 받을 수 있다.<sup>(3)</sup>

주거주 주택으로도 사용하고 비즈니스 목적으로도 사용한 부동산을 동종자산으로 교환했다면, Sec121에서 규정하고 있는 거주 주택에 대한 과거 5년 중 2년을 거주했을 때 1인당 25만달러 면세 받는 혜택과 Like-Kind Exchange 혜택을 모두 받을 수도 있다.<sup>(4)</sup>

Like-kind exchange 는 비즈니스 장비의 교환에도 적용될 수 있다. 비즈니스에 사용했던 장비를 같은 새로운 장비를 구입하면서 Trade-in 할 경우 비록 별도의 거래로 계약이 되어 두 거래가 관계없는 거래로 기록이 된다하더라도 Like-kind exchange로 취급될 수 있다.<sup>(5)</sup>

### Related party transaction

비즈니스 또는 투자 목적의 자산을 관련회사간에 Like-kind exchange를 했을 경우 해당자산을 거래가 마감된 날짜로부터 2년동안 보유하고 있었다면, Like-kind exchange 규정 혜택을 받아 Capital gain 또는 Loss를 인식하지 않을 수 있다.<sup>(6)</sup> 그러나 Like-kind exchange한 부동산을 2년내에 처분할 경우에는 Like-kind exchange에서 발생한 Capital Gain과 Loss를 자산 처분한 해에 Gain과 Loss로 인식해야 한다. 관계인 또는 관계회사간의 Like-kind exchange는 첫째, 원래 목적이 세금을 피하기 위한 목적이 아니었어야 하고, 둘째, 관계인의 사망으로 발생되었거나, 또는 셋째, 강제수용으로 되었을 경우에는 이 2년이라는 기간의 규정이 적용되지 않는다.<sup>(7)</sup>

관계인 또는 회사간의 Like-kind exchange의 원래 목적이 세금을 피하기 위한 목적으로 간주될 경우에는 Like-kind exchange의 자격이 박탈 당하게 된다.<sup>(8)</sup>

2013년 9월 3일에 판결된 Case (North Central Rental & Leasing, LLC v US, DC N.D., 2013-2USTC)를 통해서 이해를 해보면, North Dakota에 위치한 North Central Rental & Leasing, LLC는 2004년과 2007년사이에 발생한 Like-kind exchange 를 claim했다. North Central Rental & Leasing, LLC는 2002년에 이 회사의 모회사인 Butler Machinery 에 의해서 설립되었다. Taxpayer인 North Central Rental & Leasing, LLC는 모회사인 Butler Machinery에





보유하고 있었던 Property를 매각했고, Butler는 이를 제3자에게 매각했다. 그리고 Butler는 이 거래를 통해서 들어온 현금을 급료지급, 은행론 지급 등 비즈니스 비용으로 지출했다. 이 거래에 대한 납세자는 본래 목적이 세금을 회피하기 위한 목적이 아니라는 것을 증명하는데 실패함에 따라 US Tax Court는 이 거래는 low-basis property를 처분해서 세금을 의도적으로 회피한 것으로 간주해서 이 거래를 Like-kind exchange로 인정하지 않았다.

### Like-Kind Property의 정의

동종 (Like-Kind)이란 교환되는 자산의 종류와 특성이 같은 것이어야 한다고 규정하고 있으며<sup>(9)</sup>, 세법에서는 교환되는 자산들의 질이나 수준을 고려하지는 않는다. 그리고 연방법과 주정부법에서 규정하고 있는 내용 등 주변환경 역시 동종자산 여부 결정에 고려된다.

대부분의 부동산들은 동종자산 범주에 포함된다. 그러나 부동산이 해외에 위치해 있다면, 이 동종자산으로 분류되지 않는다.<sup>(10)</sup> 그리고 감가상각 되는 자산의 경우 부동산이 아니라 할지라도 같은 범주에 속하는 자산끼리 교환할 경우 동종자산으로 간주된다.<sup>(11)</sup> 무형자산과 비감가자산끼리의 교환도 동종자산으로 간주되어 Like-kind exchange를 할 수 있다. 예를들면, 소설의 Copy right과 다른 소설의 Copy right의 교환이 가능하다. 그러나 소설의 Copy right과 노래의 Copy right의 교환은 동종으로 간주되지 않는다.<sup>(12)</sup>

### Boot

Like-kind exchange를 위한 거래에서 납세자가 현금 또는 어떤 자산을 받게되면, 받은 금액에 대해서는 Non-qualifying property (Boot)로서 Capital gain or loss를 인식해야한다.<sup>(13)</sup> 납세자는 받은 Boot의 싯가로 Gain을 인식해야하며, Boot은 현금은 물론 유형, 무형 재산 그리고 채무경감 등의 혜택을 모두 포함한다. Like-kind exchange 거래에서 Boot으로 간주되어 세금을 부담해야 하는 상황을 피하기 위해서는 Give up하는 Property의 가치보다 최소한 같거나 높은 Value의 Property를 구입해야하고, 어떤 Not like-

kind property를 받으면 안되며, 융자를 필요 이상으로 하지말아야 한다.

### Conclusion

Like-kind exchange 규정이 1921년에 발표된 이래 Like-kind exchange의 제대로된 이해와 적용에 대해서는 끊임없이 논의되어왔다. 부동산 등 Like-kind property에 대한 Capital gain tax의 납부를 지연하거나 아니면 완전히 피하기 위해서 취할 수 있는 방법으로 Like-kind exchange는 단연 우선순위이다. 그리고 Like-kind exchange는 세금을 회피하는 규정이 아니라, Itemized deduction을 통해서 세금 공제 받는 것처럼, 합법적인 세법을 통한 절세를 꾀하는 유용한 방법인 것이다.

그러나 Like-kind exchange의 혜택을 받기 위해서는 반드시 지켜야 할 조건 중 하나가 기간이다. 자산 처분후 45일 이내에 교환할 자산이 지정되어야 하고, 180일 내에 거래가 마무리되어야한다. 그러나 현실적으로 이런 조건을 만족시키는 것이 생각보다 쉽지 않다보니, 자칫 기간을 놓쳐서 계획했던 Like-kind exchange의 조건을 만족시키지 못해서 Capital gain tax를 납부해야하는 경우도 빈번하고, 조건을 만족시키기 위해서 서둘러 거래를 마무리 하다보니 세금 납부는 연기시켰지만, 매매의 선택을 잘못하는 경우도 발생한다.

이 deadline은 연기되지 않을 뿐만 아니라, 180일째가 일요일 또는 공휴일일 경우 그 다음날로 연기되는 것이 아니므로 그 전에 마무리 되어야 한다. Like-kind exchange의 규정에 대한 잘못된 이해와 적용으로 국제청 감사 또는 재판으로 Like-kind exchange를 인정받지 못해 세금을 부과 받는 경우가 종종 발생되고 있다. 정확한 Like-kind exchange와 Like-kind exchange의 이해가 요구되는 이유이다. 🍀

#### Footnotes

- (1) Sec.1031(a)(2), (2) Sec1031(i), (3) Rev. Proc. 2008-16
- (4) Rev. Proc. 2005-14, (5) Rev. Rul. 61-119, (6) Sec. 1031(f)
- (7) Sec 1031(f)(2), (8) Sec 1031(f)(2)(c), (9) Reg. §1.1031(a)-1(b) and (c)
- (10) Sec. 1031(h)(1), (11) Reg. §1.1031(a)-2(b)
- (12) Reg. §1.1031(a)-2(c), (13) Reg. § 1.1031(k)-1(f)(2)





# Pre-Tax Retirement Plans for Tax Year 2015



By Jeff H. Kim, LUTCF / Exec. Field Support  
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**은퇴**를 위한 준비로 자산 증식과 관리 그리고 은퇴후에도 지속적인 소득을 유지하기 원하는 은퇴예정자들이 증가하는 추세입니다. 주지의 사실처럼, 은퇴자들을 위한 정부의 예산은 줄고있고, 의료비용 등 각종 물가는 계속 상승하고 있습니다. 이러한 현상들은 은퇴예정자들에게는 무거운 짐이 되고있고, 이들의 은퇴에 대한 관심을 증가시키고 있는 이유가 되고있습니다. 미국의 세법에서는 이런 은퇴예정자들이 은퇴 이후의 생활에 대한 준비를 미리 잘 할 수 있도록 다양한 세금혜택을 주고 있지만 이를 잘 활용하지 못하고 있는 것이 현실입니다.

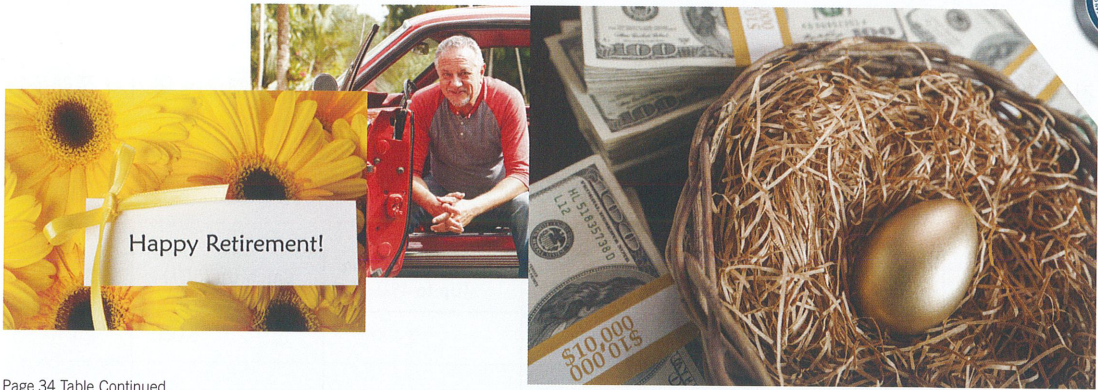
일반적으로 많이 가입하고 있는 Traditional IRA의 경우 2015년에 세금면세 한도액이 일인당 \$5,500 (50세 이상 \$6,500) 입니다. 그리고 직장에서 401K Plan이 제공된다면 급여의 \$18,000 (50세 이후 \$24,000)까지 세금혜택을 받기 위한 불입이 가능

합니다. 자영업자의 경우 플랜에 따라 차이가 있지만, 2015년 기준으로 \$12,500-\$210,000 사이의 금액을 비즈니스 소득에서 공제를 받을 수 있는 플랜이 있으며, 자격이 갖추어진 종업원이 있을 경우 직원들에게도 이런 혜택을 제공해 줄 수 있습니다. 이런 간단한 예처럼, 세금을 줄이면서 은퇴를 준비할 수 있는 다양한 플랜들이 있지만, 이런 다양성과 중요성에 비해 많은 사업주들은 이를 잘 활용하지 못하고 있는 것이 현실입니다. 그 이유는 여러곳에서 찾을 수 있지만, 안타깝게도 이런 플랜을 체계적으로 잘 이해해서 설명해 주는 전문가들의 부족에서도 그 이유를 찾을 수 있습니다. 고무적인 것은 시간이 흐르면서 충분한 지식과 경험을 갖춘 전문가들이 늘고 있다는 것입니다.

스몰 비즈니스 오너들이 회사단위의 은퇴플랜을 준비할 수 있는 대표적인 옵션 몇가지를 아래 도표를 참조하여 살펴보겠습니다.

Plan Type	Safe Harbor 401(K)	Profit Sharing	SEP IRA	Defined Benefit/412 Fully Insured Plan
<b>Key Features</b>	Tax-deferred investment; HCE employees may defer the maximum amount; Salary deferrals reduce employee's taxable income	Tax-deferred investment; Flexibility in plan design; Contributions may be deductible by employer	Easy administration; Contributions may be deductible by employer; Employer must include eligible employees	Contributions may be higher than other types of retirement plans; Generally favors older HCEs
<b>Contributors</b>	Employee and Employer	Employer Only	Employer Only	Employer Only
<b>Contribution Flexibility</b>	Mandatory Safe Harbor contribution; Employer contribution is 3% of compensation; Or, match is 100% on the first 3% of deferrals, plus 50% on deferrals between 3% and 5% of compensation	Yes	Yes	No





Page 34 Table Continued.

Plan Type	Safe Harbor 401(K)	Profit Sharing	SEP IRA	Defined Benefit/412 Fully Insured Plan
<b>Maximum Eligibility Requirement</b>	Age 21 and one year service	Age 21 and 2 years service	Age 21 with any service in 3 of last 5 years; \$600 annual compensation	Age 21 with 2 years of service
<b>Contribution Limits</b>	Employer- 25% of eligible employee compensation Individual- the lesser of 100% of compensation or \$53,000 (Including salary deferrals)	Employer- 25% of eligible employee compensation Individual- the lesser of 100% of compensation or \$53,000	Employer- 25% of each employee's compensation Individual- the lesser of 100% of compensation or \$53,000	Based on benefit formula \$210,000 maximum annual benefit
<b>Contribution Due Date</b>	Deferrals must be deposited as soon as possible, but no later than the 15th business day of the following month. Employer contribution by the tax filing date, including extensions	By employer's tax filing date, including extensions	By employer's tax filing date, including extensions	Defined Benefit- By employer's tax filing date, including extensions. 412 Fully Insured- beginning of plan year
<b>Maximum Salary Deferral</b>	\$18,000	NA	NA	NA
<b>Catch-up for Participants age 50+</b>	\$6,000	NA	NA	NA
<b>Vesting in Employer Contributions (Top Heavy)</b>	100% vesting on Safe Harbor contributions. Profit Sharing contribution may be graded up to 6 years	May be graded up to 6 years	100% immediate	May be graded up to 6 years
<b>When Established</b>	Prior to October 1	Prior to fiscal year end	Any time prior to tax filing deadline, including extensions	Prior to fiscal year end
<b>Form 5500 Reporting</b>	Yes	Yes	No	Yes

Referenced from IRS 2015 Qualified Plan Navigation





전 페이지에 요약한 플랜들 외에도 여러 옵션들이 더 있지만 일단 주로 많이 상담을 해오는 몇가지 플랜들만 정리해 보았습니다.

그 중 Safe Harbor 401K Plan의 실례를 알기 쉽게 정리해 보았습니다.

Name	Annual Compensation	Salary Deferral	Profit Sharing	Employer Matching (Up to 4%)	Catch Up (50+)	Total	
Owner	60,000	18,000 (Max)		2,400	6,000	26,400	
Employee 1	50,000	2,500 (5%)		2,000		4,500	
Employee 2	40,000	2,000 (5%)		1,600		3,600	
Employee 3	25,000	1,250 (5%)		1,000		2,250	
Employee 4	25,000	1,250 (5%)		1,000		2,250	
<b>Total</b>	200,000	25,000	0	8,000	6,000	39,000	
						<b>Fed/State Tax</b>	X 40%
						<b>Tax Saving</b>	15,600
						<b>Owners Asset</b>	26,400
						<b>Benefit Cost for</b>	
						<b>Employee</b>	5,600

위의 도표를 보시면 4명의 직원을 가진 사업주가 연 \$39,000 세전(Pre-Tax)금액을 401K 플랜에 불입할 경우 대략 \$15,600 정도의 세금이 절약 되고, 급여의 일부 (5%)를 401K 플랜에 넣은 직원 들에겐 4%까지의 Matching으로 연 \$5,600를 베네핏으로 지급하게 됩니다. \$39,000의 금액 중 \$7,000은 직원들의 급여의 일부를 넣은 것이므로 결국 \$32,000 만이 회사가 부담하는 것으로 이해하시면 됩니다.

만약 직원들이 급여의 일부를 불입하지 않는다면, Matching도 할 필요없게 됩니다. 사업주는 연 \$26,400을 401K Plan에 적립시켜 본인의 은퇴를 위한 자산준비를 하게 됩니다. 이와같이 절세와 함께 직원들에게 베네핏을 줄 수 있는 플랜을 통해서 다양한 장점을 찾을 수 있습니다. 적절한 플랜의 선택은 각 회사의 입장과 필요한 정보를 토대로 마련된 자료를 기초로 선택되어지는 것이 바람직

합니다. 그 외 플랜 선택시 은퇴자산이 어디서 어떻게 운용되어 지는가에 대한 부분도 고려해야 할 중요한 부분의 하나입니다.

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# Caring for Aging Parents

By Kelly Woo / Partner  
Profectus Financial



**Thanks** to healthier lifestyles and advances in modern medicine, there are more Americans over the age of 65 than there have ever been. The U.S. Census Bureau estimates that by 2030, more than 20 percent of U.S. residents will be aged 65 and over, compared with 13 percent in 2010 and 9.8 percent in 1970<sup>1</sup>. As our nation ages, many Americans are turning their attention to caring for aging parents.

For many people, one of the most difficult conversations to have involves talking with an aging parent about extended medical care. The shifting of roles can be challenging, and emotions often prevent important information from being exchanged and critical decisions from being made.

When talking to a parent about future care, it's best to have a strategy for structuring the conversation. Here are some key concepts to consider.

## Cover the Basics

Knowing ahead of time what information you need to find out may help keep the conversation on track. Here is a checklist that can be a good starting point:

- Primary physician
- Specialists
- Medications and supplements
- Allergies to medication

It is also important to know the location of medical and estate management paperwork, including:

- Medicare card
- Insurance information
- Durable power of attorney for healthcare<sup>2</sup>
- Will, living will, trusts and other documents<sup>2</sup>

## Be Thorough

Remember that if you can collect all the critical information, you may be able to save your family time and avoid future emotional discussions. While checklists and scripts may help prepare you, remember that this conversation could signal a major change in your parent's life. The transition from provider to dependent can be difficult for any parent and has the potential to unearth old issues. Be prepared for emotions and the unexpected. Be kind, but do your best to get all the information you need.

## Keep the Lines of Communication Open

This conversation is probably not the only one you will have with your parent about their future health-care needs. It may be the beginning of an ongoing dialogue. Consider involving other siblings in the discussions. Often one sibling takes a lead role when caring for parents, but all family members should be honest about their feelings, situations, and needs.

## Don't Procrastinate

The earlier you can begin to communicate about important issues, the more likely you will be to have all the information you need when a crisis arises. How will you know when a parent needs your help? Look for indicators like fluctuations in weight, failure to take medication, new health concerns, and diminished social interaction. These can all be warning signs that additional care may soon become necessary. Don't avoid the topic of care just because you are uncomfortable. Chances are that waiting will only make you more so.

Remember, whatever your relationship with your parent has been, this new phase of life will present challenges for both parties. By treating your parent with love and respect—and taking the necessary steps toward open communication—you will be able to provide the help needed during this new phase of life. 🌱

<sup>1</sup> U.S. Census Bureau, 2014 - Fast Fact: The U.S. Census Bureau reported Florida had the greatest share of the population that was 65 and older in 2010, followed by West Virginia and Maine.

<sup>2</sup> Note: Power of attorney laws can vary from state to state. An estate strategy that includes trusts may involve a complex web of tax rules and regulations. Consider working with a knowledgeable estate management professional before implementing such strategies.





# To Converge or Not Converge

By Richard R. Wang, CPA  
PricewaterhouseCoopers, LLP



Over the past twenty years, the accounting profession has trudged through a plethora of evolutionary changes, in the way we communicate with our clients and colleagues, as well as in the way our work is performed and documented. One could argue that there has been a paradigm shift in the way we conduct our business of accounting, certainly in the business of assurance. Gone are the days of faxes and land (telephone) lines. We now use our smart phones to text, e-mail, and send instant messages to communicate with our clients, and 3-ring binders full of working papers only crowd up the storage of archived files replaced by paperless working environments. The world of financial reporting and the standards that govern it certainly has not been immune to these evolutionary changes. Since 2002, the Financial Accounting Standards Board (FASB) and the International Accounting Standards Board (IASB) have been on the road to create one high quality global set of financial reporting standards to cope with the globalization of the world's economies.

We have also seen and experienced a healthy (or, unhealthy) dose of financial scandals during this time. We underwent an era of consolidation in the public accounting profession, where the Big 8 became a Big 6, then a Big 5, and then the Big 4, or the Final Four as some would call it. The demise of accounting giants like Arthur Andersen sent quite a message to those in the profession that no firm is immune to the reach of the unscrupulous and the auspices of the federal government. We can even see that in the banking world where in November 2013, JP Morgan Chase 'offered' to cough up \$13 billion for its wrongdoing (although the bank has not quite admitted as such to the Feds) for its involvement in and being complicit in the biggest financial crisis since the Great Depression.

To date, much work has been done by the FASB and the IASB in their efforts to bring the various

financial reporting standards of the world's economies under one roof. However, with the issuance by the Securities and Exchange Commission (SEC) of its report on the International Financial Reporting Standards (IFRS) work plan in July 2012, it does appear that the era of convergence of U.S. GAAP and IFRS reached a plateau, at least temporarily. The 2012 report summarized the key issues surrounding the potential incorporation of IFRS into U.S. GAAP, but it did not include any recommendations regarding any plans to address those key issues.

Since the signing of the Norwalk Agreement in 2002, the FASB and the IASB have been working together to respond to the demands by the global capital markets to improve the quality of U.S. GAAP and IFRS, and to converge the two standards. These efforts have resulted in much more comparability in cross-border financial reporting standards, and seem to have provided some benefit to investors around the globe. Further, when the SEC undertook a multi-year project to evaluate the possibility of incorporating IFRS into U.S. GAAP, there was continuous pressure from domestic (U.S.) companies doubting the value proposition of such adoption of IFRS by U.S. companies. And the result was that in July 2012, the SEC staff issued its final report on the IFRS work plan that did not include a recommendation to the SEC regarding the adoption of IFRS as the authoritative guidance in the U.S. The report also did not include any next steps toward a SEC decision on IFRS. The reason? The adoption of IFRS by U.S. companies is simply not supported by the vast majority of participants in the U.S. capital markets. U.S. constituents, both public and private, have voiced their concerns that such convergence of IFRS with U.S. GAAP is simply not warranted and that the costs of such convergence outweighs its benefits. It should also be noted here that the terms "adoption," "incorporation," "convergence," "endorsement," and the like are used somewhat loosely here. There has been much





debate about the proper terminology used in official announcements as those who were authoring these ideas needed to walk the fine line of being politically correct amongst the various constituents.

Part of the causes for such lack of support for the convergence of U.S. GAAP and IFRS in this globalized economy is multi-fold. The SEC endured the sharp criticisms from both the public and those holding public offices for the alleged failures of its watchdog functions, not acting upon vigorously enough or responding swiftly to the warning signs of the financial meltdown in 2008. In December 2008, the Bernard Madoff scandal was exposed, and again the SEC was noted as having failed to heed its internal warnings of the Ponzi scheme. And yet again, in February 2009, the Allen Stanford Ponzi scheme scandal was exposed and the finger-pointing was directed at the SEC for having failed to act upon the warning signs. With the SEC cleaning up the aftermath of these scandals, the priority for the agency does not seem to be focused around converging U.S. GAAP and IFRS. In fact, the SEC's priority currently is centered around accounting, auditing, and disclosure regime of the financial statements.

The pains of the financial meltdown in what is labeled The Great Recession have now slowly subsided and the economy continues to march along its path to recovery. Also, the SEC has had a changing of the guard with Mary Jo White and believes it has now put in place measures to reduce the likelihood of another Madoff of Stanford scandal from reoccurring. As the chairperson of the SEC, Mary Jo White has decades of experience as a federal prosecutor and securities attorney. And in 2013, the SEC and the Public Company Accounting Oversight Board (PCAOB) announced plans to expand their efforts in focusing on and deterring accounting fraud. In particular, the SEC has created the Financial Reporting and Audit Task Force, comprised of roughly eight accountants and attorneys, whose function is to "act as an incubator to build accounting fraud cases and hand over the cases to the larger sections within the SEC." In essence, there is still much work to do in this regard in that the agency needs to continue to ferret out those in positions of financial reporting who do the wrongdoing, so that the investing public can once again gain the confidence of the financial informa-

tion that comprise foundation of the capital markets.

So, where does that leave the future of U.S. standard setting? There is no doubt that there will continue to be pressure from the international capital markets regarding the U.S. being the biggest non-conformist to the globalized financial reporting standards. Many of the world's capital markets now require IFRS, or some form thereof, for financial statements of public entities. The other remaining major capital markets without an IFRS mandate are (i) Japan, where voluntary adoption is allowed, but no mandatory transition date has been established; (ii) India, where regulatory authorities have made public statements about the intention to adopt from 2016-2017; and (iii) China, which intends to fully converge at some undefined future date. There will also be domestic pressure to no longer move forward with the adoption of IFRS. Although the FASB has done much work to converge some of the most critical elements of financial reporting (e.g., revenue recognition and financial instruments; the FASB and the IASB continue to work together on some aspects of the remaining convergence project on leasing), with these conflicting pressures the FASB is going to have to walk a fine line. It will have to strategically consider its next steps. The tall order for the FASB is that it will have to find a way to balance the pendulum between the necessities of developing standards that conform with IFRS so that the current U.S. reporting standards continue to maintain its comparability and relevance in the global economy.

In the meantime, the discussion about the use of IFRS in the U.S. continues. In a speech in May 2014, Chairperson Mary Jo White stated that considering whether to incorporate IFRS into the U.S. financial reporting system continues to be a priority and she "hopes to be able to say more in the relatively near future." On the other hand, former SEC Chairman Christopher Cox, who once was a proponent of IFRS, recently gave a speech stating that he no longer believes that it is possible for the U.S. to adopt IFRS. Although it appears that the era of convergence is nearing an end as the FASB and the IASB shift attention to their individual agendas, the capital market participants in both the U.S. and the rest of the world continue to voice their opinions so that the standards that do evolve remain useful and relevant. 🌍

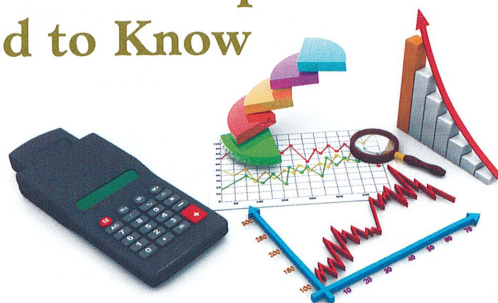




## Disguised Sales Rules and Exceptions – What You Need to Know



By Kim Abe, CPA  
Miller Kaplan Arase, LLP



**When** is a sale not a sale? That is what the IRS intends to determine with its regulations regarding so-called “disguised sales.” Disguised sales most often happen within partnerships, when a property is transferred, or “contributed” from a partner to the partnership, rather than “sold.”

The regulations under §707 provide a number of rules and presumptions for distinguishing these contributions from sales. If the transfer of property is followed by a transfer of money or other consideration to the contributing partner, it will be treated as a sale of that property, and the contributing partner will be taxed accordingly. Furthermore, the regulations create a presumption that a contribution is part of a sale if the contributing partner receives a payment within two years of the contribution.

However, the regulations provide some special rules to assure that routine kinds of partnership distributions are not treated as payments for contributed property, even if they are made within two years of a contribution. Here are some common exceptions to be aware of.

Reimbursements for expenditures made by the partner for improvements to the contributed property, are generally not treated as part of a sale of the property. This exclusion applies only if the value of the contributed property is more than 120 percent of property's basis in the partner's hands at the time of the contribution. Also, the rule for improvements applies only to reimbursed capital expenditures not exceeding 20 percent of the property's value.

Guaranteed payments over a period for the use of the contributed property are not treated as a sale. However, if a partnership makes a one-time

purported guaranteed payment in the year after the transfer, the transaction would be taxed as a sale.

If a partnership assumes, or takes a property as collection on a debt owed by a partner, such action may be characterized as part of a sale of the property to the partnership, if the debt was incurred in anticipation of the transfer. When a partnership assumes or takes property subject to that kind of debt, the reduction in the contributing partner's debt is considered a payment for an interest in the property. However, assumptions of qualified liabilities generally are excluded from disguised sale treatment. The qualified liabilities are the liabilities incurred more than two years before the transfer, or within two years of the transfer but not in anticipation, that encumber the transferred property throughout that period. Liabilities incurred to improve transferred property are also excluded.

A distribution which is financed from the proceeds of a partnership liability to a partner, generally is not treated as consideration to the extent the distribution is traceable to a partnership liability incurred within 90 days of the distribution. The amount of the distribution may not exceed the partner's allocable share of the liability incurred to fund the distribution.

On January 29, 2014, the IRS issued proposed regulations to amend or clarify some existing disguised sale rules. However, none of the proposed regulations are effective until the regulations are finalized. Therefore, these rules and exceptions apply only to the current regulations.

The rules regarding taxation and disguised sales can be very complex. If you are involved in, or contemplating a transfer via contribution, please do hesitate to contact the tax specialists. 🌐





# Retirement Income: The Transition Into Retirement

By Jongsik Kim, LUTCF, FSS, CLTC, RICP  
MassMutual Financial Group



		Are You Financially Ready?	
		No	Yes
Are You Emotionally Ready?	Yes	<ul style="list-style-type: none"> <li>• Consider delaying retirement</li> <li>• Consider more aggressive (and risky) retirement income strategy</li> <li>• Consider working in retirement</li> <li>• Consider alternative income sources (e.g., downsizing home)</li> <li>• Reevaluate retirement expectations</li> </ul>	
	No	<ul style="list-style-type: none"> <li>• Consider delaying retirement</li> <li>• Consider continuing work at reduced hours/phased retirement</li> <li>• Implement short-term plan to address financial needs</li> <li>• Reevaluate retirement expectations</li> </ul>	<ul style="list-style-type: none"> <li>• Consider a plan for retirement that addresses emotional needs (e.g., volunteering time, new career)</li> <li>• Consider continuing work at reduced hours/phased retirement</li> <li>• Discuss with spouse</li> </ul>

new career or business? It's important that you've given it some consideration, and have a plan. If you haven't--for example, if you've thought no further than the fact that retirement simply means that you won't have to go to work anymore--you're not ready to retire.

## Don't underestimate the emotional aspect of retirement

Many people define themselves by their profession. Affirmation and a sense of worth may have come, in large part, from the success that you've had in your career. Giving up that career can be disconcerting on a number of levels. Consider as well the fact that your job provides a certain structure to your life. You may also have work relationships that are important to you. Without something concrete to fill the void, you may find yourself scrambling to address unmet emotional needs.

While many see retirement as a new beginning, there are some for whom retirement is seen as the transition into some "final" life stage, marking the "beginning of the end." Others, even those who have the full financial capacity to live the retirement lifestyle they desire, can't bear the thought of not receiving a regular paycheck. For these individuals, it's not necessarily the income that the paychecks represent, but the emotional reassurance of continuing to accumulate funds.

Finally, it's often not simply a question of whether you are ready to retire. If you're married, consider whether your spouse is ready for you to retire. Does he or she share your ideas of how you want to spend your retirement? Many married couples find the first few years of one or both spouse's retirement a period of rough transition. If you haven't discussed

## Are You Ready to Retire?

The question is actually more complicated than it first appears, because it demands consideration on two levels. First, there's the emotional component: Are you ready to enter a new phase of life? Do you have a plan for what you would like to accomplish or do in retirement? Have you thought through both the good and bad aspects of transitioning into retirement? Second, there's the financial component: Can you afford to retire? Will your finances support the retirement lifestyle that you want? Do you have a retirement income plan in place?

### What does retirement mean to you?

When you close your eyes and think about your retirement, what do you see? Over your career, you may have had a vague concept of retirement as a period of reward for a lifetime of hard work, full of possibility and potential. Now that retirement is approaching, though, you need to be much more specific about what it is that you want and expect in retirement.

Do you see yourself pursuing hobbies? Traveling? Have you considered volunteering your time, taking the opportunity to go back to school, or starting a







your plans with your spouse, you should do so; think through what the repercussions will be, positive and negative, on your roles and your relationship.

### Can you afford the retirement you want?

Separate from the issue of whether you're emotionally ready to retire is the question of whether you're financially ready. Simply--can you afford to do everything you want in retirement? Of course, the answer to this question is anything but simple. It depends on your goals in retirement (i.e., how much the lifestyle you want will cost), the amount of income you can count on, and your personal savings. It also depends on how long a retirement you want to plan for and what your assumptions are regarding future inflation and earnings.

## Timing is Everything

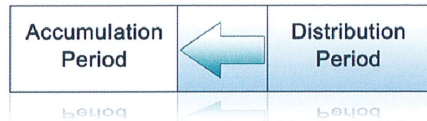
When it comes to transitioning into retirement, timing really is everything. The age at which you retire can have an enormous impact on your overall retirement income situation, so you'll want to make sure you've considered your decision from every angle. In fact, you may find that deciding when to retire is actually the product of a series of smaller decisions and calculations.

### Your retirement: How long should you plan for?

The good news is that, statistically, you're going to live for a long time. That's also the bad news, though, because that means your retirement income plan is going to have to be sufficient to provide for your needs over (potentially) a long period of time.

How long? The average 65-year-old American can expect to live for over 19.3 additional years. (Source: NCHS Data Brief, Number 168, October 2014.) Keep in mind as well that life expectancy has increased at a steady pace over the years, and is expected to continue increasing. The bottom line is that it's not unreasonable to plan for a retirement period that lasts for 30 years or more.

### Thinking of retiring early?



Retiring early can be wonderful if you're ready both emotionally and financially. Consider the financial aspect of an early retirement with great care, though. An early retirement can dramatically change your retirement finances because it affects your income plan in two major ways.

First, you're giving up what could be prime earning years, a period of time during which you could be adding to your retirement savings. More importantly, though, you're increasing the number of years that your retirement savings will need to provide for your expenses. And a few years can make a tremendous difference.

There are other factors to consider as well:

- A longer retirement period means a greater potential for inflation to eat away at your purchasing power.
- You can begin receiving Social Security retirement benefits as early as age 62. However, your benefit may be as much as 25% to 30% less than if you waited until full retirement age (66 to 67, depending on the year you were born).
- If you're covered by an employer pension plan, check to make sure it won't be negatively affected by your early retirement. Because the greatest accrual of benefits generally occurs during your final years of employment, it's possible that early retirement could effectively reduce the benefits you receive.
- If you plan to start using your 401(k) or traditional IRA savings before you turn 59½, you may have to pay a 10% early distribution penalty tax in addition to any regular income tax due (with some exceptions, including payments made from a 401(k) plan due to your separation from service in or after the year you turn 55, and



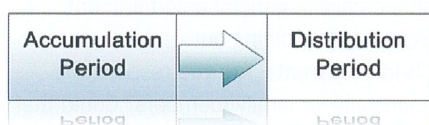


distributions due to disability).

- You're not eligible for Medicare until you turn 65. Unless you'll be eligible for retiree health benefits through your employer (or have coverage through your spouse's plan), or you take another job that offers health insurance, you'll need to calculate the cost of paying for insurance or health care out-of-pocket, at least until you can receive Medicare coverage.

70½, you'll need to begin taking required minimum distributions from any traditional IRAs and employersponsored retirement plans (other than your current employer's retirement plan), even if you do not need the funds.

### Thinking of postponing retirement?



Postponing retirement lets you continue to add to your retirement savings. That's especially advantageous if you're saving in tax-deferred accounts, and if you're receiving employer contributions. For example, if you retire at age 65 instead of age 55, and manage to save an additional \$20,000 per year in your 401(k) at an 8% rate of return during that time, you can add an extra \$312,909 to your retirement fund. (This is a hypothetical example and is not intended to reflect the actual performance of any specific investment.)

Even if you're no longer adding to your retirement savings, delaying retirement postpones the date that you'll need to start withdrawing from your savings. That could significantly enhance your savings' potential to last throughout your lifetime.

And, of course, there are other factors that you should consider:

- Postponing full retirement gives you additional transition time if you need it. If you're considering a new career or volunteer opportunities in retirement, you could lay the groundwork by taking classes or trying out your new role part-time.
- Postponing retirement may allow you to delay taking Social Security retirement benefits, potentially increasing your benefit.
- If you postpone retirement beyond age

Key Decision Points		
	Age	Don't forget-
<b>Eligible to tap tax-deferred savings without early withdrawal penalty</b>	59½*	Federal income taxes will be due on pretax contributions and earnings
<b>Eligible for early Social Security benefits</b>	62	Taking benefits before full retirement age reduces each monthly payment
<b>Eligible for Medicare</b>	65	Contact Medicare 3 months before your 65th birthday
<b>Full retirement age for Social Security</b>	66 to 67, depending on when you were born	After full retirement age, earned income no longer affects Social Security benefits

\* Age 55 for distributions from employer plans upon termination of employment; other exceptions apply

## How Much Annual Retirement Income Will You Need?

How much annual income will you need in retirement? If you aren't able to answer this question, you're not ready to make a decision about retiring. And, if it's been more than a year since







you've thought about it, it's time to revisit your calculations. Your whole retirement income plan starts with your target annual income, and there are a significant number of factors to consider; start out with a poor estimate of your needs, and your plan is off-track before you've even begun.

### General guidelines

It's common to discuss desired annual retirement income as a percentage of your current income. Depending on who you're talking to, that percentage could be anywhere from 60% to 90%, or even more, of your current income. The appeal of this approach lies in its simplicity, and the fact that there's a fairly common-sense analysis underlying it: Your current income sustains your present lifestyle, so taking that income and reducing it by a specific percentage to reflect the fact that there will be certain expenses you'll no longer be liable for (e.g., payroll taxes) will, theoretically, allow you to sustain your current lifestyle.

The problem with this approach is that it doesn't account for your specific situation. If you intend to travel extensively in retirement, for example, you might easily need 100% (or more) of your current income to get by. It's fine to use a percentage of your current income as a benchmark, but it's worth going through all of your current expenses in detail, and really thinking about how those expenses will change over time as you transition into retirement.

### Factors to consider

It all starts with your plans for retirement--the lifestyle that you envision. Do you expect to travel extensively? Take up or rediscover a hobby? Do you plan to take classes? Whatever your plan, try to assign a corresponding dollar cost. Other specific considerations include:

- **Housing costs** If your mortgage isn't already paid off, will it be paid soon? Do you plan to relocate to a less (or more) expensive area? Downsize?
- **Work-related expenses** You're likely to eliminate some costs associated with your

current job (for example, commuting, clothing, dry cleaning, retirement savings contributions), in addition to payroll taxes.

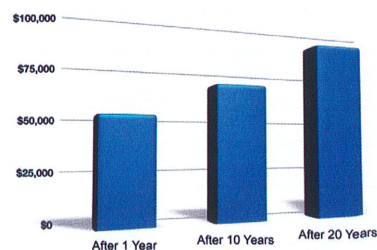
- **Health care** Health-care costs can have a significant impact on your retirement finances (this can be particularly true in the early years if you retire before you're eligible for Medicare).
- **Long-term care costs** The potential costs involved in an extended nursing home stay can be catastrophic.
- **Entertainment** It's not uncommon to see an increase in general entertainment expenses like dining out.
- **Children/parents** Are you responsible financially for family members? Could that change in future years?
- **Gifting** Do you plan on making gifts to family members or a favorite charity? Do you want to ensure that funds are left to your heirs at your death?

### Accounting for inflation

Inflation is the risk that the purchasing power of a dollar will decline over time, due to the rising cost of goods and services. If inflation runs at its historical long term average of about 3%, a given sum of money will lose half its purchasing power in 23 years.

Assuming a consistent annual inflation rate of 3%, and excluding taxes and investment returns in general, if \$50,000 satisfies your retirement income needs in the first year of retirement, you'll need \$51,500 of income the next year to meet the same income needs. In 10 years, you'll need about \$67,196. In other words, all other things being equal, inflation means that you'll need more income each year just to keep pace.

*How much will you need to equal \$50,000 in today's dollars given 3% inflation?*







## Do You Plan to Work in Retirement?

An increasing number of employees nearing retirement plan to work for at least some period of time during their retirement years. The obvious advantage of working during retirement is that you'll be earning money and relying less on your retirement savings--leaving more to potentially grow for the future and helping your savings to last longer. But there are also non-economic reasons for working during retirement. Many retirees work for personal fulfillment--to stay mentally and physically active, to enjoy the social benefits of working, or to try their hand at something new. The reasons are as varied as the retirees themselves.

If you're thinking of working during a portion of your retirement, you'll want to consider carefully how it might affect your overall retirement income plan. For example:

- If you continue to work, will you have access to affordable health care (more and more employers are offering this important benefit to part-time employees)?
- Will working in retirement allow you to delay receiving Social Security retirement benefits? If so, your annual benefit--when you begin receiving benefits--may be higher.
- If you'll be receiving Social Security benefits while working, how will your work income affect the amount of Social Security benefits that you receive? Additional earnings can increase benefits in future years. However, for years before you reach full retirement age, \$1 in benefits will generally be withheld for every \$2 you earn over the annual earnings limit (\$15,720 in 2015). Special rules apply in the year that you reach full retirement age.

## Retirement Income: The "Three-Legged Stool"

Traditionally, retirement income has been described

as a "three-legged stool" comprised of Social Security, traditional employer pension income, and individual savings and investments. With fewer and fewer individuals covered by traditional employer pensions, though, the analogy doesn't really hold up well today.

### Social Security retirement income

Today, 94% of U.S. workers are covered by Social Security (Source: SSA Annual Statistical Supplement, 2013). The amount of Social Security retirement benefit that you're entitled to is based on the number of years you've been working and the amount you've earned. Your benefit is calculated using a formula that takes into account your 35 highest earning years.

### Social Security Full Retirement Age

Birth Year	Full Retirement Age
1943-1954	66
1955	66 and 2 months
1956	66 and 4 months
1957	66 and 6 months
1958	66 and 8 months
1959	66 and 10 months
1960 and later	67

\*Source: Social Security Administration

The earliest that you can begin receiving Social Security retirement benefits is age 62. If you decide to start collecting benefits before your full retirement age (which ranges from 65 to 67, depending on the year you were born), there's a major drawback to consider: Your monthly retirement benefit will be permanently reduced. In fact, if you begin collecting retirement benefits at age 62, each monthly benefit check will be 20% to 30% less than it would be at full retirement age. The exact amount of the reduction will depend on the year you were born. (Conversely, you can get a higher payout by delaying retirement past your full retirement age--the government increases your payout every month that you delay retirement, up to age 70.)

→





If you begin receiving retirement benefits at age 62, however, even though your monthly benefit is less than it would be if you waited until normal retirement age, you'll end up receiving more benefit checks. For example, if your normal retirement age is 66, if you opt to receive Social Security retirement benefits at age 62 rather than waiting until 66, you'll receive 48 additional monthly benefit payments.

The good news is that, for many people, Social Security will provide a monthly benefit each and every month of retirement, and the benefit will be periodically adjusted for inflation. The bad news is that, for many people, Social Security alone isn't going to provide enough income in retirement. For example, according to the quick calculator on Social Security's website, an individual born in 1952 who currently earns \$100,000 a year can expect to receive approximately \$26,784 annually at full retirement age, which in this case would be age 66. Of course, your actual benefits will depend on your work history, earnings, and retirement age. The point is that Social Security will probably make up only a portion of your total retirement income needs.

### Traditional employer pensions

If you're entitled to receive a traditional pension, you're lucky; fewer Americans are covered by them every year. If you haven't already selected a payout option, you'll want to carefully consider your choices. And, whether or not you've already chosen a payout option, you'll want to make sure you know exactly how much income your pension will provide, and whether or not it will adjust for inflation.

In a traditional pension plan (also known as a defined benefit plan), your retirement benefit is generally an annuity, payable over your lifetime, beginning at the plan's normal retirement age (typically age 65). Many plans allow you to retire early (for example, at age 55 or earlier). However, if you choose early retirement, your pension benefit is actuarially reduced to account for the fact that payments are beginning earlier, and are payable for a longer period of time.

If you're married, the plan generally must pay your

benefit as a qualified joint and survivor annuity (QJSA). A QJSA provides a monthly payment for as long as either you or your spouse is alive. The payments under a QJSA are generally smaller than under a single-life annuity because they continue until both you and your spouse have died.

Your spouse's QJSA survivor benefit is typically 50% of the amount you receive during your joint lives. However, depending on the terms of your employer's plan, you may be able to elect a spousal survivor benefit of up to 100% of the amount you receive during your joint lives. Generally, the greater the survivor benefit you choose, the smaller the amount you will receive during your joint lives. If your spouse consents in writing, you can decline the QJSA and elect a single-life annuity or another option offered by the plan.

The best option for you depends on your individual situation, including your (and your spouse's) age, health, and other financial resources. If you're at all unsure about your pension, including which options are available to you, talk to your employer or to a financial professional.

### Personal savings

Most people are not going to be able to rely on Social Security retirement benefits to provide for all of their needs. And traditional pensions are becoming more and more rare. That leaves the last leg of the three-legged stool, or personal savings, to carry most of the burden when it comes to your retirement income plan.

Your personal savings are funds that you've accumulated in tax-advantaged retirement accounts like 401(k) plans, 403(b) plans, 457(b) plans, and IRAs, as well as any investments you hold outside of tax-advantaged accounts.

Until now, when it came to personal savings, your focus was probably on accumulation--building as large a nest egg as possible. As you transition into retirement, however, that focus changes. Rather than accumulation, you're going to need to look at your personal savings in terms of distribution and





income potential. The bottom line: You want to maximize the ability of your personal savings to provide annual income during your retirement years, closing the gap between your projected annual income need and the funds you'll be receiving from Social Security and from any pension payout.

Some of the factors you'll need to consider, in the context of your overall plan, include:

- **Your general asset allocation** The challenge is to provide, with reasonable certainty, for the annual income you will need, while balancing that need with other considerations, such as liquidity, how long you need your funds to last, your risk tolerance, and anticipated rates of return.
- **Specific investments and products** Should you consider an annuity? Municipal bonds? What about a mutual fund that's managed to provide predictable retirement income (sometimes called a "distribution" mutual fund)?
- **Your withdrawal rate** How much can you afford to withdraw each year without exhausting your portfolio? You'll need to take into account your asset allocation, projected returns, your distribution period, and whether you expect to use both principal and income, or income alone. You'll also need to consider how much fluctuation in income you can tolerate from month to month, and year to year.
- **The order in which you tap various accounts** Tax considerations can affect which accounts you should use first, and which you should defer using until later.
- **Required minimum distributions (RMDs)** You'll want to consider up front how you'll deal with required withdrawals from tax-advantaged accounts like 401(k)s and traditional IRAs, or whether they'll be a factor at all. After age 70½, if you withdraw less than your RMD, you'll pay a penalty tax equal to 50% of the amount you failed to withdraw.

### Other sources of retirement income

If you've determined that you're not going to have

sufficient annual income in retirement, consider possible additional sources of income, including:

- **Working in retirement** Part-time work, regular consulting, or a full second career could all provide you with valuable income.
- **Your home** If you have built up substantial home equity, you may be able to tap it as a source of retirement income. You could sell your home, then downsize or buy in a lowercost region, investing that freed-up cash to produce income or to be used as needed. Another possibility is borrowing against the value of your home (a course that should be explored with caution).
- **Permanent life insurance** Although not the primary function of life insurance, an existing permanent life insurance policy that has cash value can sometimes be a potential source of retirement income. (Policy loans and withdrawals can reduce the cash value, reduce or eliminate the death benefit, and can have negative tax consequences.)

### What if you still don't have enough?

If there's no possibility that you're going to be able to afford the retirement you want, your options are limited:

1. **Postpone retirement** You'll be able to continue to add to your retirement savings. More importantly, delaying retirement postpones the date that you'll need to start withdrawing from your personal savings. Depending on your individual circumstances, this can make an enormous difference in your overall retirement income plan.
2. **Reevaluate retirement expectations** You might consider ratcheting down your goals and expectations in retirement to a level that better aligns with your financial means. That doesn't necessarily mean a dramatic lifestyle change—even small adjustments can make a difference. 🌱

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- 2012. LA Fashion District 브랜치 오픈
- 2013. 아시아나 캐피탈 인수
- 2014. 7억불 팩토링 실적  
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1/3~1/4/14	Bank Loan Officers Training Program
1/10~1/11/14	Bank Loan Officers Training Program
1/16/14	Monthly Seminar(2hrs), SoHyang Banquet Hall
2/19/14	동포대상 텍스세미나 - Los Angeles 지역, Oxford Palace Hotel
2/20/14	동포대상 텍스세미나 - Orange County 지역, Wilshire Bank, Cerritos
3/6/14	Radio Seoul 후원 방송세무상담
3/13/14	Radio Korea 후원 방송 세무상담
3/20/14	우리방송 후원 방송세무상담
4/24/14	Monthly Seminar(1hr), SoHyang Banquet Hall
5/15/14	Monthly Seminar(4hrs), SoHyang Banquet Hall
5/31/14	<b>연례 Bankers, CPAs &amp; Professionals Golf Tournament 개최</b> - Industry Hills Golf Club
6/13/14	제32대 신임회장단 Meeting
6/25/14	<b>제31대-제32대 회장단 이취임식</b> - Oxford Palace Hotel
7/17/14	Monthly Seminar(4hrs), JJ Grand Hotel
8/8/14	Monthly Seminar #1(8hrs), Skylinks Golf Course
8/9/14	Monthly Seminar #2(4hrs), Skylinks Golf Course
8/9/14	<b>Golf Outing</b> , Skylinks Golf Course
8/14/14	1st Qtr Board of Directors Meeting, JJ Grand Hotel - Financial Report for 2013-2014, 2014-2015 Budget
8/24 ~ 8/27/14	<b>2014 KASCPA Convention</b> , Hyatt Regency, Bellevue, WA
9/5/14	<b>Young CPAs Mixer</b> , Oxford Palace Hotel
9/18/14	Monthly Seminar(4hrs), Oxford Palace Hotel
10/23/14	Monthly Seminar(4hrs), Oxford Palace Hotel
11/7/14	<b>Professionals Mixer</b> , Gwang Yang BBQ Banquet Hall
11/20/14	Monthly Seminar(4hrs), Oxford Palace Hotel
11/20/14	2nd Qtr Board of Directors Meeting, Oxford Palace Hotel
12/10/14	<b>2014 KACPA Christmas Party</b> - Oxford Palace Hotel





## 2015 남가주한인공인회계사협회 사업활동

1/15/15	2014 KACPA Journal Published
1/15/15	Monthly Seminar(4hr), Oxford Palace Hotel
1/15/15	3rd Qtr Board of Directors Meeting, Oxford Palace Hotel
1/22/15	동포대상 텍스세미나 – Los Angeles 지역, Oxford Palace Hotel
1/27/15	동포대상 텍스세미나 – Orange County 지역, Los Coyotes CC
2/10/15	Radio Seoul 후원 방송세무상담
2/25/15	우리방송 후원 방송세무상담
3/11/15	Radio Korea 후원 방송 세무상담
4/23/15	Monthly Seminar(4hrs), Oxford Palace Hotel, 8am~1pm
5/21/15	Monthly Seminar(4hrs), Oxford Palace Hotel, 8am~1pm
5/21/15	4th Qtr Board of Directors Meeting, Oxford Palace Hotel, 1pm~2pm
5/30/15	연례 Bankers, CPAs & Professionals Golf Tournament 개최 – Industry Hills Golf Club, 11am

## 2014 KACPA Journal Vol.16 협찬사







# 2014년 KACPA 포토갤러리

## The 32nd Installation of KACPA Officers (2014~2015)



남가주한인공인회계사협회(KACPA)의 크리스티 주, 제32대 신임회장은 "임기 내 협회 운영의 큰 갈래는 회원 혜택 증대와 한인사회 기여"라며 "이 두 가지를 기초로 더 발전한 협회를 만드는 데 최선을 다하겠다"고 다짐했다. 회원 혜택차원에서 보수교육에 필요한 세미나를 연간 40시간, 회당 4시간으로 확대하고 세미나 강사도 각분야 전문가를 초빙해 세미나 수준도 높일 방침이다. KACPA는 6월 25일 LA 한인타운 옥스포드 팰라스 호텔에서 '제31대/제32대 회장단 이취임식'을 개최했다. 이번 행사에는 금융 및 재정 관계자와 변호사 등 200여명이 참석했다.





## 2014 KASCPA 학술대회 참석 (Bellevue, WA)



미주한인공인회계사총연합회(회장 김운중)는 8월 24일에 Bellevue Hyatt 호텔에서 2014 학술대회를 개최했다. 크리스티 추 KACPA 회장을 비롯한 많은 남가주 한인 CPA들이 참석했다. 참석자들은 미국 세금법, CPA 운영 리더십, 한국세법 등에 대한 강의와 토론을 통해 한인 고객들에게 제공할 수 있는 최고의 세금 서비스와 절세 노하우 등을 익혔으며, 골프와 시애틀 관광 등을 통해 회원간 네트워크를 강화했다.

## 2014 KACPA Mixer (Young CPAs Mixer & Professionals Mixer)



Young CPAs Mixer



Professionals Mixer



Professionals Mixer



Professionals Mixer

세대간 유대강화를 위한 '만남의 장'인 Young CPAs Mixer를 2014년 9월 5일 옥스퍼드 팰레스 호텔에서 개최했다. 한인사회와 주류사회에서 활동하는 1세는 물론 1.5세 및 2세 등 60여명이 모인 행사에서 협회 회원들은 친목을 도모했다. 또한, 11월 7일에는 은행 관계자들과 회계사와 변호사, 보험/재정인등 각 분야의 차세대 한인경제인 100여명이 참석한 2014년 Professionals Mixer를 LA 한식당 광양 BBQ에서 개최했다.





### 2014 KACPA 송년의 밤



2014년 12월 10일, LA 옥스포드 팰레스 호텔에서 송년의 밤 행사를 가졌다. 250여명의 회원 및 경제계 외부인사가 참석한 가운데 오랜만에 함께 모여 그동안의 서로의 노고를 치하하고 친목을 다짐하는 유쾌한 시간이었다.





## 2014 KACPA Member Seminar



남가주한인공인회계사협회는 매년 연례/월례 세미나를 개최하고 있다. 협회원들에게 보다 심도 있고 알찬 내용의 세미나를 제공하기 위해 전문가를 초청하여 실력향상에 힘쓰며, 세미나에 참석한 협회원들은 CPE 크레딧도 받을 수 있다. 올해는 총 9회에 걸친 세미나 개최를 LA 한인타운에서 실시하였다. 세미나에 관련된 정보나 일정은 협회 웹사이트 [www.kacpa.org](http://www.kacpa.org)를 통해 알 수 있다.

## 2014 Bankers, CPAs & Professionals Golf Tournament / KACPA Golf Outing



2014 Bankers, CPAs & Professionals Golf Tournament를 5월 31일 Industry Hills Golf Club에서 개최하였다. 공인회계사, 은행/금융, 변호사 등 남가주에서 활동하는 전문가들이 함께 모여서 서로 친목을 다진 이번 대회에는 130여명이 참가해 성황을 누렸다. 2014년 8월 9일에는 협회 친목 골프대회가 Skylinks Golf Course에서 열려 바쁜 업무에 시달렸던 협회원들은 좋은 휴식시간을 가졌다.

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