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남가주 한인 공인회계사 협회

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KACPA Journal

Visions of Korean-American Certified Public Accountants

발행인: 임창수 / 편집인: 장두천

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S&P 지수에 선정되어 미국경제를 대표합니다.

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Korean American CPA Society of So. California
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한미은행의 저력이 다시 한번 확인됐습니다.
LA 비즈니스 저널 분석, LA 카운티의 모든 은행 중
한미은행이 자산 규모 5위, SBA 대출 4위에 올랐습니다.
여러분이 한미은행을 키워주신 것처럼
한미은행은 여러분의 꿈을 키워갑니다.
우리의 더 나은 미래를 위해 -



“고객의 꿈을 위해,
고객의 행복을 위해
여기서 만족하지 않고
더욱 더 최선을 다하겠습니다.”

한미은행장 손성원

LA 카운티 은행 중
"자산 규모 5위, SBA 대출 4위"



2005년 LA 비즈니스 부문별

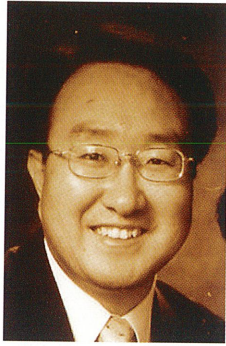
순위	은행	2004년 기준 단위
1	뱅크 오브 아메리카	2,036
2	인디펜던트 뱅크	325
3	플스라고 뱅크	320
4	한미은행	241
5	캘리포니아뱅크트러스트	220
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순위	은행	2004년 6월말 자산 기준 단위: 100만달러
1	시티내셔널뱅크	13,270
2	캐세이뱅크	5,762
3	캘리포니아내셔널뱅크	5,181
4	이스트-웨스트뱅크	4,896
5	한미은행	3,085
6	피어스 & 머처트뱅크오브롱비치	2,912
7	멜론 퍼스트 비즈니스뱅크	2,697
8	캘리포니아 커머스뱅크	1,902
9	차이나 트러스트뱅크 USA	1,863
10	커뮤니티뱅크	1,782

05 LA 비즈니스 연감 07/18/05

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남가주 한인 공인회계사 협회장
임 창 수

남가주 한인 공인회계사협회가 이민사회와 함께 성장해온지 어언 23년이 되었습니다. 또한 협회지인 KACPA Journal 도 여러해가 흘러 이제 제 7호를 발간하게 되었습니다. 그동안 본 협회가 주요한 창립 목적의 하나인 회원들간의 교류 및 권익 향상을 위해 꾸준히 노력해 왔음은 물론 우리가 속해있는 남가주 교포사회의 경제 발전을 위해서도 부단한 노력을 했으며 더불어 큰 역할을 담당해 왔음에 자부심을 느끼게 됩니다. 그동안 열심히 협회를 이끌어 오신 전임 회장단과 항상 협조해 주신 회원 여러분들의 노고와 금융계를 비롯한 많은 후원단체의 도움에 깊은 감사를 드립니다.

모든것이 하루가 멀다하고 급변하는 현대 사회에서 우리 CPA 들에게도 많은 도전이 기다리고 있습니다. 우리가 매일 부딪치는 일상적인 문제들 외에도 한정된 시장의 확대 문제, 새로운 서비스의 개발과 우리가 제공하는 서비스 질의 향상 문제, 그에 따른 적정한 Fee 의 산출 및 부과 문제 그리고 Practice Succession Planning 등 산적한 난제들이 많이 있습니다.

이러한 어려움을 극복하고 계속 발전해 나가기 위해서는 첫째로 우리 각자가 투철한 전문인 정신을 가지고 확고한 직업윤리 의식속에 각자의 실력을 향상 시켜야 하는것은 물론이지만 더 나아가서는 많은 문제들이 우리 각자 개인의 노력만으로는 극복 할 수 없고 우리 CPA 들 모두가 함께 지혜와 힘과 마음을 하나로 모을때 해결 할 수 있으리라고 생각 됩니다. 앞으로는 우리들 각자의 장점들을 하나로 모아 보다 더 큰 Firm 이 생겨나고 본 협회화 협회지를 통해 개인만으로는 할 수 없는 더욱 큰일들을 해낼수 있게 되기를 바랍니다.

이런 뜻에서 사람은 생각하는대로 산다 그렇지 않으면 사는대로 생각하고 만다는 귀절의 의미를 생각해 보아야 한다고 봅니다. 우리가 처해 있는 어려운 환경이 절망의 조건이 되느냐 아니면 새로운 발전의 원동력이 되느냐는 다분히 그 환경을 어떠한 시각에서 바라 보느냐에 달려 있다고 합니다. 이제 2006년 한해는 우리 CPA 들 각자와 본 협회 더 나아가서는 남가주 교포사회가 보다 긍정적인 생각을 가지고 하나로 뭉치며 우리 사회 전체가 발전 하는 가운데 우리 각자의 삶도 발전하며 희망이 넘치는 한 해가 되기를 기원 드립니다.



Message from the President and Chief Executive Officer

Seon Hong Kim,
President and Chief Executive Officer
Center Bank

A very special greeting to the members and friends of the Korean CPA Association - I sincerely wish that all of you are enjoying a warm, meaningful and rewarding holiday season with family and loved ones. I also trust that all of your endeavors in 2005 were successful, as we look to continue to stride in achieving our dream.

First, I would like to take this opportunity to express my sincere appreciation to the Korean CPA Association for providing me with this opportunity to address and share a few thoughts on our role as financial experts with a common interest of better serving our community. Bankers and CPAs have long been working closely in serving the financial needs of our community. We have worked to stimulate economic growth and development, promoted diversified economic and commerce activities, and also have provided guidance to entrepreneurs and business owners to access capital through various professional activities.

Bankers have been providing the financial expertise for individuals and entrepreneurs in our community by working closely with a number of professional groups including various CPAs.

Over the past few years, Center Bank and the Korean CPA Association have jointly provided valuable and beneficial workshops for individuals and business leaders by holding a number of community based forums and seminars. Through these workshops, we have educated a sizable number of individuals and business owners on subject matters including ways to access capital, and complying with the BSA laws and regulations among other things. I

believe that Center Bank and Korean CPA Association both understand the importance of providing community based education programs and I am proposing that we continue our efforts in this regard.

Center Bank has been providing Money Smart, a financial education program, for its clientele over the past few years. Our program has been successful and we have over 600 Money Smart graduates today. Center Bank and Korean CPA Association may provide Money Smart financial education program to our community in 2006 and beyond. We may consider jointly hosting forums on subjects such as financial planning and compliance with BSA among other subject matters, and I look forward to taking further course of actions along with the Korean CPA Association. On another front, CPAs have been making measurable enhancements over the past several years in promptly compiling of financial information and generating financial statements in a timely manner.

Thanks to the CPAs' efforts, more financial statements are being generated in a timely manner, and this has enabled bankers to promptly underwrite and process various loan requests and renewals. I would like to take this opportunity to respectfully ask our CPA professionals to continue their commitments to deliver the utmost transparent and timely financials so that our community can achieve even stronger economic growth and prosperity. Center Bank, along with our CPA friends, will continue its efforts to promote and assist the economic growth and development of our community by not only providing leading financial products and services, but also delivering value-added, proven IT based products and services, such as FaxBanking, ACH service and Bank2You/ Bank2CPA among other things.

I look forward to working closely with the Korean CPA Association throughout 2006 and beyond to accomplish various endeavors on our route to making our community one that we can all be proud of.

Thank you very much, and until next time, be safe and healthy.





중앙은행 창립 20주년

고객감사 특별 이벤트
 지혜로운 재산관리
"상속계획과 리빙 트러스트"
 일정은 2006년 1월달 중앙은행 광고를 참조하세요.



2006
창립 20주년

2005
자산 16억 불 돌파
17개 지점망, 9개 대출 사무소

2004
15개 지점망,
9개 대출 사무소

2003
자산 10억 불 돌파

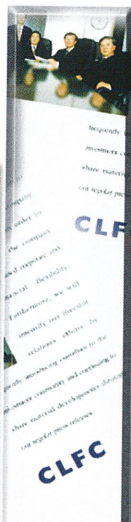
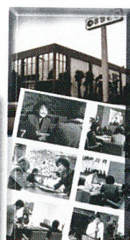
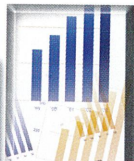
2002
NASDAQ 상장

2001
11개 지점망,
3개 대출 사무소

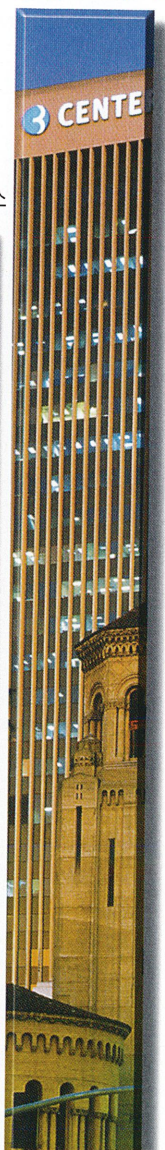
1995
5개 지점망

1991
5년 연속
기록적 순이익 달성

1986
중앙은행 설립



Total Assets grew 30% to \$1.34 billion
Net Loans increased 41% to \$1.01 billion



213.251.2222

HEADQUARTERS	213.251.2222	OLYMPIC	213.386.2222	GARDENA	310.327.2222	GARDEN GROVE	714.891.2222	DOWNTOWN	213.746.2222	WESTERN	213.381.2222
INLAND	909.370.2222	SAN PEDRO	213.741.2222	WILSHIRE	213.251.2222	TORRANCE	310.891.2222	SAN DIEGO	858.874.3333	CERRITOS	562.403.2222
OXFORD	213.388.2222	FULLERTON	714.522.2222	VALLEY	818.534.3333	IRVINE	949.777.3777	CHICAGO	773.433.3000	SEATTLE	425.743.7777
INTERNATIONAL	213.427.2222	SBA DEPT	213.381.2222	PRIVATE BANKING DEPT	213.746.2222	NEW MARKET GROUP	213.251.2222	COMMERCIAL LENDING	213.401.2309	MORTGAGE LOAN CENTER	714.736.2282
CREDIT CARD CENTER	213.386.2222	AUTO LOAN CENTER	213.381.2222	PHOENIX LPO	602.944.3777	SEATTLE LPO	425.775.5555	DENVER LPO	303.751.1717	WASHINGTON DC LPO	703.750.0636
NEVADA LPO	702.257.1215	HAWAII LPO	808.949.0452	ATLANTA LPO	770.452.9994	HOUSTON LPO	713.417.1072	DALLAS LPO	972.488.3535		

금년 국내에서 첫 시행되는 종합 부동산세에 대하여

LA 총영사관 이성호 영사

1. 서

2005년부터는 국내에서 고액의 부동산을 보유하는 자에 대하여 현행 재산세(지방세)보다 높은 세율로 과세되는 종합부동산세(구세)가 첫 시행된다. 종합부동산세는 일정기준 금액 이상의 부동산 보유자에게 부과되는 세금으로서 1차적으로 시?군?구에서는 관내 부동산에 대하여 낮은 세율로 재산세를 과세하고, 2차적으로 구가에서는 인별로 소유 부동산가액이 일정기준 금액 초과자를 대상으로 높은 종합부동산세를 과세한다.



소유하는 부동산에 과세되는 보유세가 종전에는 건물은 재산세, 토지는 종합토지세로 나뉘었으나 올해부터는 주택의 경우는 건물과 토지를 통합하여 지방세인 재산세와 구세인 종합부동산세로 과세하며, 토지는 인별로 관할 시?군?구내 토지를 합산하여 지방세인 재산세를 과세하고 전구 토지를 합산하여 구세인 종합부동산세를 과세하게 된다.

2. 과세대상 및 기준금액

과세대상은 주택, 나대지등(지상정착물이 없는 주차장등 나대지, 잡종지등), 사업용토지(빌딩?상가?사무실의 부속토지)로 구분하여 판정하게 된다. 사업용 건물, 농지, 임야(영림계획인가를 받은 임야)는 과세대상에서 제외하되 영농에 사용하지 않는 농지는 나대지로 분류되어 과세된다. 그리고 임대사업용 주택

(일정요건 구비)은 과세대상에서 제외되고, 오피스텔을 주거용으로 사용하고 있는 경우에는 과세대상이 된다.

기준금액은 인별로 소유한 과세대상별 합산가액이 일정 금액을 초과하는 경우에만 과세된다. 주택은 구세청 기준시가 및 개별주택공시가격 9억원, 나대지등은 공시지가 6억원, 사업용 토지는 공시지가 40억원을 초과하는 경우를 말하며, 부부가 각각 또는 공동으로 주택을 소유시 각각 계산하여 과세대상 여부를 판정한다.

3. 과세표준의 산정방법

주택은 종전에는 건물과 토지를 각각 평가하던 것을 주택전체(건물+부속토지)를 통합하여 시가로 평가하여 세금을 계산한다. 아파트 등 공동주택은 구세청 기준시가의 50%에서 기준금액 9억원의 50%(4.5억원)를 차감한 금액이 종합부동산세 과세표준이 되며, 기타 주택은 개별주택공시가격의 50%에서 기준금액 9억원의 50%(4.5억원)를 차감한 금액이 종합부동산세 과세표준이 된다. 참고로 주택에 대한 재산세의 과세표준은 구세청 기준시가 또는 개별주택공시가격의 50%가 된다.

4. 세율

주택, 나대지등, 사업용토지별로 별도의 세율체계를 갖고 있다. 주택은 과세표준5.5억원이하 1.0%, 5.5억~45.5억원이하 2.0%, 45.5억원초과 3.0%이고, 나대지등은 과세표준 7억원이하 1.0%, 7억원~47억원이하 2.0%, 47억원 초과 4.0%이며, 사업용 토지는 과세표준 80억원이하 0.6%, 80억원~480억원 1.0%, 480억원초과 1.6%이다. 주택에 대한 재산세의 세율은 4천만원 이하 0.15%, 4천만원~1억원 이하 0.3%, 1억원초과 0.5%이다.

5. 세부담 상한

각 과세대상 물건별로 당해 연도의 재산세액 상당액과 종합부동산세 상당액의합계액이 전연도의 당해 세액 상당액의 150%를 초과하는 경우 그 초과세액은 면제된다.

6. 종합부동산세의 신고?납부

매년 6월1일 현재 소유 부동산을 기준으로 종합부동산세 과세대상여부를 판정하며, 종합부동산세는 매년 12월1일부터 12월15일까지 부동산 소유자 주소지 관할세무서에 자진 신고?납부하여야 한다. 신고기한내에 신고하고 이에 따른 세액을 납부하면 내야 할 세금의 3%를 공제받을 수 있다.

재산세는 매년 6월1일 현재 소유 토지와 건물을 기준으로 건물분과 주택(부속토지포함)분의 1/2은 7월16일부터 7월31일까지, 토지분과 주택(부속토지포함)분의 1/2은 9월16일부터 9월30일까지 납부하여야 한다.

7. 농어촌특별세

종합부동산세가 과세되는 경우에는 종합부동산세의 20%를 농어촌특별세로 납부하여야 한다.

제 9회 미주한인 공인 회계사 총 연합회 총회 및 제 5회 학술대회 참관기

이병향 CPA

지난 9월 25일에 New Jersey Fortlee 호텔에서 제 9회 미주한인 공인회계사 총 연합회 총회겸 제 5회 학술대회가 개최되었다. 이번 학술대회는 미주한인 공인회계사 총 연합회(회장 호민선)가 주최 하고 대 N.Y. 한인 공인회계사 협회(회장 목상호)가 주관 하였다.

총 연합회 이상민 사무총장을 통해서 수백통의 전화와 FAX로 조직적인 학술대회를 준비하고 있는것을 이미 알았다. 떠나기 전부터 이러한 세밀한 조직력과 소속되어 있는 전문인 단체를 위해서 열

심히 일하는 임원들을 볼때 앞으로 우리 후세 CPA들에게 자랑이 되며 우리 회원들의 사회적 위상을 정립시키는데 부족함이 없는것을 보고 마음이 흐뭇했다.

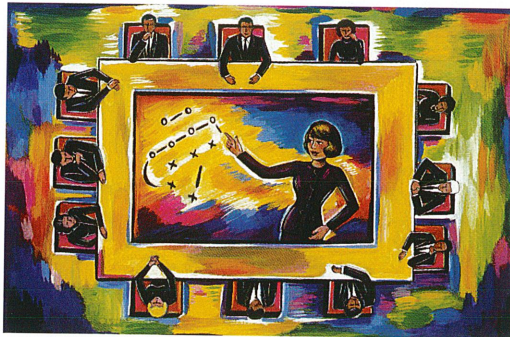
New Jersey 공항에 도착하니 강석우 재무가 이미 나와 있었고 이어 이상민 사무총장 등이 뺨을 가지고와 우리를 정중히 Pick-up하였다. 공항에서 부터 New York 임원들의 정성어린 노력을 느낄수 있었다.

첫 날 세미나는 Big 4에 근무하는 김창욱 회계사가 요즘 Big4에서 치중하는 Issue와 Staff관리 문제를 설명하였다. Enron사건이후 강화된 회계감사로 업무가 늘어나고 Staff확보에 어려움이 있다는 설명이었다.

저녁 세미나에는 각 지회(남가주, NY, 뉴저지, 하와이, 필라델피아, 북가주, 시카고, 미시간, 와싱턴DC)의 회장들이 각 지회 현황을 설명하였다. 모두들 남가주 협회의 모범적 활동을 이야기하였고 model로 삼겠다고 하였다. 20여년 동안 남가주CPA 협회를 잘 이끌어온 회원 및 임원 회장들이 자랑스러웠다.

둘 째날 세미나는 보다 실질적인 문제로 CPA비즈니스 계승문제를 다루었다. 본인의 불이익을 감수하고 Partnership으로 회계사 무실을 성장시켰다는 조관영 Washington DC 회계사의 강의를 모두 경청하였다. 남가주 오영균 전회장도 본인의 사무실계승 경험을 이야기하여, 사무실 계승의 중요성을 알려 주었다.

본인은 사정상 Golf를 못하였지만, 모두들 좋은 Course에서 친목의 시간을 가졌다고 얘기를 하였다. 마지막날 저녁 많은 CPA들이 호텔BAR에 모여 이야기를 나누며 아쉬운 작별의 시간을 가졌다.



미국의 한인사회 역사가 백년이 된다. 그러나 본격적인 소수민족으로서 자리를 잡기 시작한 것은 70년대 부터 라면 우리 공인회계사의 역사도 그때부터 시작이 되었다고 본다. 그러기 때문에 지역사회에서 그때부터

사무실을 Open해 고객을 Service한 CPA들은 미주한인들의 경제발전에 크게 공헌한것임에 틀림 없다. 근래에 와서 뚜렷하게 자리잡은 기업은 은행이다. 이러한 은행들의 성장뒤에는 우리 CPA들의 재무제표 및 세무보고의 뒷받침이 없이는 절대 불가능한 일이었다. 이번 제 5회 미주한인공인회계사 총연합회 학술 대회에 다녀오면서 나는 회계사라는 전문인으로서의 긍지와 권위를 느낀바가 크다.

오래전에 있었던일이다. 김희집 회장(전 고대 총장, 한구공인회계사 협회장), 이종남 회장(전 법무부장관, 전 감사원장, 한구공회계사 협회장), 권용진 부회장(한구공인회계사 협회 구제 담당 이사)와 함께 점심을 같이 했다. 이 자리에서 이분들의 하신 말이 있다. 이제 미주의 한인 CPA들도 성장된 전문인 단체가 되기 위해서는 미주 총연합회를 발족해서 창구의 일원화를 이룰때가 되었고, 한구의 CPA협회도 자기들의 개인돈으로 시작한것이 오늘 날 이렇게 큰 단체가 되었다고 했다. 그 이후 우리 남가주협회가 주동이 되어 미주 총연을 시작하여 10년 이 지난 지금 미주 한인공인회계사 총연합회의 성장된 모습을 보면 자랑스럽기만 하다.

이번에 학술대회를 주최하신 호민선 총연합회장님, 이상민 사무총장님 그리고 대회를 주관해 주신 목상호 N.Y. CPA 협회 회장님 그리고 수고하신 여러분께 다시한번 감사를 드린다.

사회 공동체는 동참하고 참여하는데 그 생명력이 있다. 봉사와 소속감과 철학을 가지고 참여할 때 그 공동체의 생명이 유지되는 것이라고 생각한다. 내가 소속해 있는 전문인 단체의 발전에 참여하는것도 사회생활에 중요한 부분이 되는 것이다. 주고사는 인생, 베풀고 사는 인생이 될때에 삶의 보람을 느끼는 것이다. 이번 총회를 통해서 미주 각 지역의 CPA들이 참석하여 서로 주고 받는 학술적인 정보교환 및 토론을 통해서 앞으로 우리 미주 한인 공인회계사 총연합회가 크게 발전할 것을 믿는다.

지난번 신문에서 한인 치과의사 미주 총연합회 학술대회가 Glendale에서 개최되었고, 또 지난 여름에는 미주 한인 과학자 총연합회 학술대회가 Anaheim에서 열렸다는 기사를

읽었다. 우리 공인 회계사 총연합회도 이러한 학술대회가 되풀이 되며 서로 만나는 공동체로서의 위치를 확고히 해 나갈으로써 CPA의 위상 정립은 물론 후배들에게 좋은 남김의 유산이 될 줄로 믿는다.

뉴욕, 뉴저지, 남가주, 북가주, 와싱턴 D.C, 미시간, 시카고, 하와이 등지에서 온 각 대표 및 지회장들의 주제 발표는 말 그대로 미주 전체를 하나로 묶는 공인회계사 총연합회의 면모를 보여 주었다고 할 수 있다.

학술대회, 정보교환, 창구일원화, 회원 전화 주소록 발간등의 취지를 목적으로 10년전 창립된 총연합회의 연차 사업이 계속 진행되는 동안에 더 많은 미주의 공인회계사들이 참여해서 보다더 성장된 단체로서의 활동이 이루어 질 것을 다시 한번 확신하는 바이다.

남가주에서 비행기로 4-5시간의 여행도 마다하고 참석하여 주신 남가주 전 회장님들, 회원님들에게 모두 감사 드리고 내년에도 9월경 New York 근교에서 있을 제 6회 학술대회에 더 많은 남가주 회원들이 참석하여 공인회계사로서의 긍지와 우의를 다지는 계기로 삼았으면 하는 것이 바람이다.

The Essence of A Fair Value Accounting Model

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M easurement of assets, liabilities and equities has historically been one of the major issues in financial accounting. The attribute of historical cost

has long been accepted as a fundamental measurement principle for assets, liabilities and equities. However, this attribute has recently been challenged due to the lack of relevancy, one of primary characteristics of useful information (The Financial Accounting Standards Board's Statement of Financial Accounting Concepts No.2 (referred to as the Concepts Statement below)). The attribute of fair value has been adopted in various accounting rules (e.g., accountings for financial instruments, intangible assets, and share-based payment) to replace the attribute of historical cost. The fair value attribute was given a theoretical justification in the Concepts Statement No. 7, "Using Cash Flow Information and Present Value in Accounting Measurements" issued in 2000. The concept of fair value has been implemented in several accounting rules recently issued by the FASB. Examples include accounting rules for financial instruments (SFAS No. 115 and SFAS No. 140), impairments of long-lived assets (SFAS No. 144)

and goodwill (SFAS No. 142) and share-based payment (SFAS No. 123R). It is expected that the concept of fair value will be adopted more frequently as a measurement attribute in future accounting rules as capital markets produce more diversified financial instruments, measurement techniques improve and develop and information systems including accounting databases become more advanced in the future. Therefore, it is essential in accounting practice to understand the concept of fair value as one of accounting measurement attributes. The purpose of this paper is to demonstrate the fundamentals of a fair value accounting model by identifying essential differences between the historical cost accounting model and the fair value accounting model.

Fair Value Defined

Theoretically, fair value is very subjective. As long as an individual accepts a value as

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fair, the value shall be considered to be fair value in the perspective to the individual. However, the fair value to one individual does not necessarily mean the fair value to other individuals. That is, in the case where any one fair value is not accepted among the individuals involved, it is not considered to be the fair value from the perspective of the group of the individuals. Due to this subjective nature of fair value, it has not long been accepted in accounting practice, where accounting measures should be accepted by various groups of individuals such as investors and creditors.

Even though fair value is subjective in nature and therefore considered to be unreliable, it has been considered to be more relevant than other accounting attributes (e.g., historical cost) from a conceptual standpoint. Consequently, the notion of how to incorporate the fair value as a measurement attribute has long been a controversial issue in financial accounting theory. Acknowledging this nature of fair value, the FASB narrowly define fair value as a market price that is "the amount at which an asset (or liability) could be bought (or incurred) or sold (or settled) in a current transaction between willing parties, that is, other than in a forced or liquidation sale" (the Concepts Statement No. 7).

However, the narrow definition of the fair value has a problem in its limited applications because the market price is not available in many cases in accounting due to the lack of well-established markets. To cope with the problem, the FASB introduced the concept of present value as a proxy measure of the market price in its Concept Statement No. 7. In the Concept Statement, the FASB claims that present value is a theoretically valid proxy measure for a

market price so that it may be used in cases where the market price of a measurement item is not available. Further, in other accounting standards (e.g., SFAS No. 142 and SFAS No 123R), the FASB introduced other methods or techniques (e.g., comparable market price techniques, and valuation techniques such as Black and Scholes model and the binomial model to measure fair value. By adopting rigorous measurement techniques to estimate fair value, the FASB has more progressively incorporated the fair value concept in various recent accounting rules.

Essential Differences between a Fair Value Accounting Model and a Historical Accounting Model



There are two essential differences between a fair value accounting model and a historical accounting model. First, the initially recorded measurement can be changed at the later reporting dates under the fair value accounting model, while the measurement would not be changed, once recorded, under the

historical accounting model. The FASB refers to the subsequent measurement as "Fresh-Start Measurement" in its Concept Statement No. 7. For example, when a long-lived asset is acquired for \$10,000 for the operation of an entity, the \$10,000 remains in the entity's book as the entity's asset until sold or exhausted in its life under the historical accounting model. However, the amount would be changed to its fair value at its subsequent reporting (or measurement) date as the fair value of the asset (e.g., \$8,000) has changed, under the fair value accounting model. Second, since the fair value accounting model requires recording the measurement item at its fair

value at subsequent reporting dates, there will be a change in the reporting measurement during the reporting period. Thus, the fair value accounting model faces the issue of how to account for the change in the reporting measurement. On the other hand, the historical cost accounting model would not face such an issue because the initially recorded measurement would not subsequently change. These two essential differences are explained below.

Fresh-Start Measurement

The FASB introduced the new concept of "Fresh-Start Measurement" related to a fair value accounting model in its Concept Statement No. 7. In the Concept Statement, the FASB defines the fresh-start measurement as "measurements in periods following initial recognition that establish a new carrying amount unrelated to previous amounts and accounting conventions." That is, the subsequent measurement shall not be related to either the book value or any measures driven by the accounting conventions such as depreciation/ amortization methods. An example is a quoted market price used to measure for a marketable security traded in an active security market subsequent to the initial recognition of the security.

In current practice, the fresh-start measurement concept is used in two ways: first, by recognizing or disclosing fair value in the financial statements and notes and second, by assessing and recognizing an impairment loss. The examples of the first alternative include investments on marketable securities classified as trading securities or securities available for sales and hedged items, derivatives and other financial instruments (such as loans receivable and deposits payable). The examples for the second method include fair value estimates subsequent to the initial recognitions for tangible fixed assets, goodwill and other intangible assets such as patent, trademark and copyright.

Recognition of Change in Value Subsequent to Initial Recognition

The fresh-start measurement is most likely different from the initial measurement or its prior period measurement (i.e., carrying amount). Consequently, there will be a difference between these two measurements. The accounting issue is how to account for such a difference. In current practice, there are two different ways to recognize the difference. The first method is to recognize it on the income statement and the second method is to recognize it on the equity section of the balance sheet. The examples of the first method include the marketable securities classified as trading securities, derivatives other than those involved in effective cash flow hedges, and hedged items under fair value hedges. The examples of the second method include marketable securities classified as securities available for sales and derivatives involved in effective cash flow hedges.

Applications of a Fair Value Accounting Model

While the concept of fair value has been fully implemented to account for financial instruments (e.g., marketable securities ruled by SFAS No. 115 and derivatives and hedging items ruled by SFAS No. 133), the concept has been partially applied to assess the impairment of long-live assets, intangibles and goodwill and to estimate the value of employee services awarded in the forms of equity or liability instrument (i.e., share-based payment ruled by SFAS No.123R). These accounting rules are briefly presented below to demonstrate how the fair value concept has been adopted in the accounting rules recently pronounced by the FASB.

SFAS No. 115, "Accounting for Certain Investments in Debt and Equity Security"

According to SFAS No. 115, "Accounting for Certain Investments in Debt and Equity Security," the investment shall be measured at fair value at reporting date. For example,

let us assume that XYZ Corp. acquired 100 shares of IBM common stock for \$80.00 on October 1, 2005. Let us further assume that the stock price increased to \$83.00 on December 31, 2005, the corporation's year end. Pursuant to SFAS No. 115, the investment shall be recorded at \$83 per share on December 31, 2005. Then, how shall XYZ Corp. account for the change in price, \$3 per share from the acquisition date to the reporting date? According to SFAS No. 115, it shall be dependant upon XYZ Corp.'s intention for the investment. If the investment is intended to be sold in the near future to realize a short-term profit, it shall be classified as trading securities, otherwise, it shall be classified as securities available for sale. If the investment is classified as trading securities, the change in the value shall be accounted for as unrealized holding gain on the income statement. On the other hand, if it is classified as securities available for sale, it shall be accounted for as unrealized holding gain on the equity section of the balance sheet.

SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities"

SFAS No. 133 requires that "an entity recognize all derivatives as either assets or liabilities in the statement of financial position and measure those instruments at fair value." To account for changes in the fair value of a derivative (i.e., gains and losses) the entity shall identify its intended use of the derivative and evaluate its effectiveness. When a derivative is intended to be designated to hedge the exposure to changes in the fair value of an asset or liability or a firm commitment as referred to as fair value hedge, the changes shall be recognized in earnings. On the other hand, when a derivative is intended to be designated to hedge the risk exposure to cash flows of a forecasted transaction as referred to a cash flow hedge, the changes shall be reported in the equity section of balance sheet, other comprehensive income to the extent where the hedge is effective. The

ineffective portion of the changes shall be reported in the income statement. When a derivative is intended to be designated as hedging the foreign currency exposure, the changes shall be reported as other comprehensive income. Lastly when a derivative is not designated as a hedging instrument, the changes shall be reported in the income statement.

SFAS No. 142, "Goodwill and Other Intangible Assets"

According to SFAS No. 142, goodwill and intangible assets with indefinite lives which are not subject to amortization shall be evaluated on an annual basis at least if there are any impairments on those assets. The fair values of those assets shall be estimated annually to determine any impairment. In case of an intangible asset, its estimated fair value at reporting date (e.g., \$100,000) shall be compared with its carrying amount (e.g., \$120,000). If the fair value is less than its carrying amount, an impairment loss shall be recognized in an amount equal to that excess (e.g., \$20,000).

For goodwill, two steps shall be followed to assess its impairment loss. The first step is to identify potential impairment. The fair value of a reporting unit shall be compared with its carrying amount, including goodwill. If the fair value of a reporting unit (e.g., \$1,000,000) exceeds its carrying amount (e.g., \$900,000), goodwill of the reporting unit is considered not impaired, hence the second step of the impairment test is unnecessary. If the carrying amount of a reporting unit (e.g., \$900,000) exceeds its fair value (e.g., \$700,000), then the second step shall be carried out to measure the amount of impairment loss. The implied fair value of reporting unit goodwill (e.g., \$100,000) shall be compared with the carrying amount of that goodwill (e.g., \$200,000). If the carrying amount of reporting unit goodwill exceeds the implied fair value of that goodwill, an impairment

loss shall be recognized in an amount equal to that excess (e.g., \$100,000). The implied fair value is the difference between the fair value of a reporting unit estimated in the first step and the fair value of all identifiable tangible and intangible assets less liabilities of the reporting unit.

SFAS No. 123R, "Share-Based Payment"

SFAS No. 123R, "Share-Based Payment" requires a public entity (nonpublic entity in some conditions) to measure the cost of employee services received in exchange for an award of equity instruments (e.g., stock option) on the basis of the fair value of the award. The fair value of the award shall be estimated on its grant date. That estimated cost will be recognized as expense over the requisite service period (e.g., vesting period) during which an employee is required to provide service in exchange for the award.

Further, the Statement requires a public entity to measure the cost of employee services received in exchange for an award of liability instruments based on its current fair value; the fair value of that award shall be remeasured subsequently at each reporting date through the settlement date. Changes in fair value during the requisite service period will be recognized as compensation cost over that period.

Present Value Technique as a Measurement of Fair Value

The major accounting issue related to a fair value accounting model is how to measure the fair value of accounting subjects (e.g., assets and liabilities). The FASB introduced several measurement methods in its Concepts Statement No. 7 and other pronouncements. The suggested methods include quoted market prices, comparable market price methods (e.g., a valuation technique based on multiples of earnings or revenue or a similar performance measure), a present value technique, and option pricing models such as a binomial model and

the Black-Scholes-Merton model. The Concepts Statement states that a quoted market price shall be used if the price is available for an accounting subject since it is the best evidence of fair value. Otherwise, an appropriate measurement method shall be used to estimate fair value. The choice of the measurement methods depends on the objective of the measurement and the characteristics of the subject items. For example, the FASB suggests in its SFAS No. 123R that a binomial model and the Black-Scholes-Merton model be used to estimate the fair values of employee share options among the valuation techniques. In its SFAS No. 142, the FASB states that a present value technique is the best method to estimate a fair value of a reporting unit as defined in the Statement. Among the suggested method, a present value technique is most prevalently used in estimating fair value.

General Principles of a Present Value Technique

Present value technique has been proved in financial literature as a valid method to estimate fair value. The FASB also supported the method as a valid proxy measure for a market price because the method incorporates the major determinants of a market price (the Concepts Statement No.7). However, the technique requires estimates of three variables: i.e. expected future cash flows, discount rate and the time period of future cash flows. As such, the outcome of the technique, a present value may be unreliable if the technique is not properly used (e.g., biased estimates of any or all of the three variables). Thus, the Concepts No 7 provides general guidelines for the present value technique in accounting measurements. The guidelines indicate that (1) the estimates of the variables shall be consistent with the objective of measuring fair value, (2) the estimates shall be unbiased, (3) the assumptions of the estimates (e.g., cash flows and discount rates) shall be consistent with each other and (4)

expected cash flows and interests shall be used, rather than a single best estimate as used in most current accounting practices.

Expected Future Cash Flows

The cash flow estimates shall incorporate assumptions that marketplace participants would use in estimating fair value since the objective of the estimates is to obtain the best proxy measure of a market price. In case where market information is not available without undue cost and effort, an entity may use its own assumptions. The cash flow estimates shall be based on reasonable and supportable assumptions, taking into account all available evidence so that the estimate may be complete and reliable.

In estimating future cash flows, the Concept Statement No. 7 claims that the expected cash flow approach is more effective in measurement than the traditional approach (i.e., a single best estimate approach) because of its "focusing on direct analysis of the cash flows in question and on more explicit statements of the assumptions used in the measurement" (the Concept Statement No. 7, Para. 45). Thus, the expected cash flow approach shall be used in estimating fair value. Under the expected cash flow approach, all the expectations about possible cash flows shall be incorporated in measurement while under the traditional approach the best estimate of possible cash flows is selected. For example, possible cash flows from an asset are \$1,000, \$2,000 and \$3,000 with the probabilities of 20%, 50% and 30%, respectively. The expected cash flow shall be \$2,100, or $\$1,000 \times 20\% + \$2,000 \times 50\% + \$3,000 \times 30\%$, while a single best cash flow \$2,000.

Discount Rates

Discount rates are the other determinant in estimating fair value with a present value technique. It is not simple to determine the discount rates since many factors influence the discount rates. The Concepts

Statement No. 7 provides several general guidelines in determining the discount rate. First, the rates shall incorporate assumptions that marketplace participants would use in estimating fair value, as the case of the cash flow estimates. Second, the discount rates should reflect assumptions that are consistent with those inherent in the estimated cash flows (Para. 41). Third, the discount rates shall incorporate the time value of money (i.e., the risk-free rate of interest), the inherent risk related to the measurement subjects and liquidity and market risk (ibid, Para 39). Fourth, the rates shall be estimated taking into account possible outcomes rather than choosing a single best rate. The example of the rates consistent with the general guidelines include the discount rates determined by the Capital Asset Pricing Model where the rates are determined by three estimates of the risk-free rate, the market risk premium and the sensitivity of the firm's returns to the market's returns.

Conclusion

The purpose of this paper is to demonstrate the fundamental concepts of a fair value accounting model since fair value has been used in the accounting standards pronounced recently and is expected to be used in the future accounting standards. The fair value accounting model is fundamentally different from the historical accounting model, since it incorporates the fresh-start measurement and the recognition of changes in fair value during a reporting period. That is, the adoption of a fair value accounting model requires the entity to obtain (or estimate) fair value at each of subsequent reporting date to the initial recognition date. The FASB states that a market price shall be used for fair value if it is available; otherwise, appropriate methods shall be used to estimate fair value. Among the measurement methods, the present value method is considered to be the most prevalently used one and thus, the fundamental concepts of the method were discussed in the paper.

As the FASB moves to adopt the fair value measurement attribute more frequently in its accounting rules, accountants in the future will increasingly face the issues of measuring the accounting subjects such as assets, liabilities and equities under the fair value model. As such, it is imperative for the accountants to understand the measurement methods developed and used in other disciplines such as economics and finance and to find the way to incorporate the methods in financial accounting.

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Business Bailout Using a Charity

Methods of Transferring a Business to the Next Generation while Benefiting a Charity

Brandon Bay

Business succession is on the minds of many owners, especially as they approach retirement. The owners may look to the next generation to run the business. While there are several methods to transfer the business to the next generation, an option that is often overlooked is a business bailout using a charity.

The business bailout may help avoid problems that are associated with passing a business to children. These problems include children owning an interest that may not want to be involved in the business, or having only some children receive a business interest while disinheriting others. In addition, the business bailout may solve potential conflict among the children by providing the children involved in the business with an interest and the remaining children with an inheritance. Depending on the structure, the parents or older generation may also utilize the bailout as an additional source of income for retirement.

The first step involves transferring the business stock to the children. To affect this, the parents may wish to recapitalize their voting stock into both voting and nonvoting stock. Then the parents transfer a block

of voting stock to the children that are involved in the business. In some circumstances, the parents may wish retain voting control and only transfer nonvoting stock to the children. This article, however, assumes that the parents relinquish 100% of their ownership control. Therefore, the parents would only own nonvoting stock after the transfer.

The stock may be transferred outright to children through the use of the annual gift exclusion and their lifetime applicable exemption amount. Other methods to transfer the stock to the children that may be used are: a charitable lead trust, a grantor retained annuity trust or a family limited partnership. The transfers may also qualify for lack of marketability and/or lack of control discounts.

Next, the parents gift the non-voting stock to a qualified charity. The gift may be made to a charity outright, through a charitable remainder trust (CRT) or a charitable gift annuity (CGA). Because this gift is made to a qualified charity, the parents may receive a charitable income tax deduction at the time of the gift to the charity. This gift may also bypass the gain on a sale of assets and any additional gift taxes.

If the gift is made to the charity through a CRT, the parents retain an annual income stream from the trust for a term of years (up to 20) or for one or both of their lives. Although, the trust itself may

be tax exempt, the income stream may be taxable to the donor. After the term, the remainder interest in the trust will directly benefit a chosen charity. It is important to note, however, that a CRT is not an option if Subchapter S stock is involved because such a charitable trust is not an eligible Subchapter S shareholder. See IRC §1361(e)(1)(B)(iii).



A CGA is a contract under which a charity, in return for an irrevocable gift of assets, agrees to pay a fixed amount of money to one or two individuals, for their lifetime. The payments are fixed and unchanged for the term of the contract. Just like a commercial annuity, part of the payment is interest earned and is taxable as ordinary income, part of the payment is capital gain income and part of each payment is return of principal and is tax-free. If an annuitant survives past his or her life expectancy, all later annuity payments will be ordinary income. The contributed asset becomes a part of the charity's assets, and the payments are a general obligation of the charity. The charity's entire assets back the annuity, not just the property contributed.

At a later date, the charity may choose to sell the stock. Generally, in closely held businesses, the only willing buyer is either the family members in the business or a stock redemption from the business itself.

It is critical that the charity not be legally bound to carry out a stock redemption prior to the gift. If the charity is legally bound to carry out the redemption, the IRS contends that the redemption is actually from the business owner and he or she must report any capital gain and dividend income that has been realized.

The last step requires the parents to create an irrevocable life insurance trust (ILIT). The ILIT can be used for estate equalization for the non-business owner children or heirs.

Hypothetical Example

Mom and Dad wish to retire from the family business they started several years ago, Ponchos for Parrots Group, Inc. (PPG). PPG, a successful clothing outfitter for birds, is valued at \$3,000,000. It is a C corporation. They have three children, Becky, Tom and Kirk. Becky and Tom are actively involved

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in PPG. Kirk does not have an interest in working in the family business. Mom and Dad would like for Becky and Tom to inherit PPG, but are afraid that they will partially disinherit Kirk. In addition, Mom and Dad would like to benefit a charity as part of their estate plan. They would also like to supplement their retirement income.

After recapitalizing the stock, Mom and Dad make an outright gift of voting stock to Becky and Tom underneath the annual exclusion and the applicable exclusion amount, for a total of \$1,000,000. Becky and Tom now have voting control of PPG. Mom and Dad own 100% of the nonvoting stock.

Mom and Dad then make a charitable contribution of the remaining \$2,000,000 nonvoting stock to a charitable remainder annuity trust (CRAT). Using a 5% payout rate and an 8% growth rate, they receive annual income payments of \$100,000. Mom and Dad use the income stream to supplement their retirement. They also plan to use a portion of the income to make an annual gift of the premium on a \$1,000,000 survivorship life insurance policy owned by an ILIT for the benefit of Kirk. At the initial gift, Mom and Dad may also receive a charitable income tax deduction of \$685,900.

Finally, PPG negotiates a sale with the CRAT redeeming the stock for fair market value. After the term of the CRAT, the charity receives the \$6,120,027 remaining interest in the trust. Becky and Tom own 100% of PPG's stock. The ILIT ensures that Kirk receives an equal inheritance.

To summarize, the charitable business bailout may be an effective way to increase, transfer-tax free, the percentage ownership in the corporation of family members who are shareholders at the time of the redemption. The income tax deduction and the transfer of stock also will reduce the parent's gross estate for estate tax purposes (by the value of the stock and any subsequent appreciation on it), but increased by

any unspent or ungifted annuity payments. In addition, capital gain may not be immediately recognized on the stock redemption.

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Fast Track Mediation (긴급조정)

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정동완 CPA/JD, 전 IRS 감사관/징수관

세금문제의 빠른 해결책

(A Process for Prompt Resolution of Tax Issues)

I.R.S.에서 시행하는 Audit이나 Collection의 문제에 직면하여 심리적, 금전적 부담감을

갖고 짧게는 반년 혹은 수년을 고생하는 납세자들이 많이 있다. 필자는 이전 I.R.S.감사관/세금징수관으로 15년간 경험하였던 케이스들을 바탕으로 하여 이같은 문제점을 보다 신속하게 해결할 수 있는 방안을 제시하고자 한다. Fast Track Mediation(긴급조정)은 Court의 Mediation제도를 따라 케이스들을 보다 빠르게 해결하기 위해 I.R.S.에서 최근 새롭게 도입한 제도이다.

개요(Overview)

1. 긴급조정(FTM)이란 케이스를 보다 신속하게 해결하기 위해 IRS가 마련한 서비스 과정이다. 긴급조정은 감사나 컬렉션 결정으로 인해 시작될 수도 있으며 조정 과정은 납세자와 규제기관(Compliance)사이의 의사소통을 활성화하고 불일치하는 문제점의 해결하기 위한 것이다. 긴급조정은 조정에 대한 전문 훈련을 받은 항소 심사관(Appeal Officer)과 납세자, 규제기관이 관련되며 보다 신속

한 세금분쟁의 해결을 위한 타임 프레임이 제공된다. 모든 조정과정이 끝나기까지 평균 30-40일정도가 소요되며 긴급조정 과정 중의 케이스는 규제기관의 권한에 남아 있게 된다.

2. 납세자 혹은 규제기관이 긴급조정을 시작할 수 있다. 하지만 양자가 서로 조정에 합의해야 하며 케이스 규정에 남아있는 시간은 다른 항소 및 규제과정과 일관되어야 한다. 긴급조정을 시작하기 위해 규제기관은 "Agreement to Mediate" 와 "Summary of Issues" 를 작성하여 항소구(Appeals)에 전달한다.
3. 항소구이 문서를 받게되면 항소담당자 (Appeal Manager)가 케이스를 승인하고 항소심사관 (조정관)에게 넘긴다. 조정관은 조정 기간의 스케줄과 장소를 정하고 필요시 문제에 대한 정확한 이해를 위해 납세자나 규제기관에게 정보를 요청할 권리를 가진다.

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4. 규제부서는 조정기간 중에 적극적으로 참가하는 반면 조정관은 최종결정권은 갖지 않으며 어떤 문제점에 관한 결정도 내리지 않는다. 따라서 케이스는 납세자와 규제기관이 합의점에 도달해야만 문제가 해결될 수 있다.
5. 조정기간의 마지막 단계에 만약 양자가 문제를 해결했다면 규제기관은 일반적인 마감 절차를 따르게 된다. 만약 문제가 해결되지 않았다면 납세자는 모든 일반적인 항소권을 갖게 되고 규제기관은 케이스를 “불일치”로 마감하게 된다. 이후, 만약 케이스가 항소구으로 전달되면, 케이스는 다른 항소심사관에게 넘겨진다.
6. 긴급조정 과정은 IRC Section 6103에 근거하여 모든 관련자에게 긴밀한 사항으로 보호된다. 따라서, 문제 해결을 위한 의사소통의 모든 정보는 보호되고 공개되지 않으며 문제 해결을 위해 준비된 모든 구두와 문서상의 내용이 보호된다.

긴급조정의 자격(FTM Qualifications)

1. 긴급조정은 보통 모든 Non-Docketed Case와 Collection Source Work에 대해 가능하다. \$100,000(Tax Only)이상의 케이스는 그 복잡성으로 인해 규제기관에 의해 조정에 적합한지 여부에 관한 자세한 리뷰가 요구된다.
2. Service Center Case는 관리자의 마감 회의가 불가능하므로 보통 긴급 조정에 해당되지 않는다. 다음은 현재 긴급조정에서 제외되는 케이스 목록이다.
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 - 2) Absence of Legal Precedence/ or Conflicts between Jurisdictions
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리 해결하기 어려움.

3) Industry Specialization Issues
Industry Specialization Program Coordinator 가 의사 결정과정에 참여해야 하는데 보통 조정기간에 불가능함.

4) Competent Authority Cases
US와 외국간에 발생하는 이슈에 관련됨.

5) Service Center Penalty Appeals
이미 항소구에 케이스가 전달되었으며 대부분 관리적 접근이 어려움.

6) Service Center(Streamlined) OIC Cases
대부분 관리적 접근이 어려우며 규제부서원이 조정할 수 없음.

7) CAP Case “Five Day” Collection Appeals Program(CAP)

8) Automated Collection System Cases
규제부서원이 케이스를 조정할 수 없고 대부분 관리적 접근이 어려움.

9) Cases involving solely failure or refusal to comply with the tax laws because of moral, religious, political, constitutional, conscientious, or similar sounds
문제점들이 쉽게 해결되기 어려움.

10) Effective Tax Administration Issues
지역 관리자의 사인을 요구함.

이상에서 알 수 있듯이 긴급조정(FTM)은 제한적인 경우를 제외하고 일반 납세자들이 세금문제를 보다 신속하게 전문 조정관을 통하여 중립적으로 해결하기 위한 I.R.S.의 서비스 과정이다. 무작정 문제해결을 기다리기 보다 조정관을 통하여 불필요한 걱정과 시간소비를 줄이도록 하자.

호루라기 법안의 교훈

허성규 교수님
Cal State San Bernardino

최 근 몇몇 대형회사들이 기업의 이익을 부풀리고 주식 가격 조작등과 같은 회계 부정을 저지르다가 결국 기업을 파산에까지 이르게 하는 것을 언론 매체를 통하여 보아왔다. 이러한 결과로 수많은 선의의 투자자들이 피해를 입고 미국 경제에도 부정적 영향을 미쳤다. 정상적인 경영으로 주식값이 올라서 주식 차익을 즐긴다면 윤리적으로 문제 될 것도 없고, 경영자들도 비난 받을 필요가 없다. 그런데 문제는 이러한 차익을 즐기 위하여 기업 이익을 부풀리고 그에 따라 주식 가격이 상승하면 경영자들은 주식을 재빨리 팔아서 엄청난 주식 차익을 즐기고 곧이어 회사는 파산하고, 수많은 피해자들만 빈털터리가 되어 고통을 받으니 심각한 사회 문제가 되는 것이다. 그러므로 국회에서는 이러한 문제를 방지하기 위하여, 기업 개혁 입법을 서두르게 되었다. 열가지의 조항이 있지만 간단히 살펴보면, 기업 감시기구의 강화, 기업 회계 부정에 대



한 처벌 강화, 그리고 '호루라기 부는 사람'(Whistle Blower, 내부 고발자) 보호등을 들 수 있다. 여러 가지 처벌 강화 입법이 기업 경영의 투명성 제고에 기여 할 것은 확실하지만, 그것으로는 부족하다. 왜냐하면 수많은 기업을 일일이 감독하는 것은 사실 불가능하므로 이러한 회계 부정은 앞으로도 계속 될 것이다. 그렇지만, 그러한 부정을 근원적으로 방지할 수 있는 방법은 각 기업의 구성원이 자사 기업이 회계 원칙을 준수하고 있는지 또한 윤리적 측면에서 문제가 없는지 감시하고, 부정이 있을 때 '호루라기'를 불 수 있게하면 가장 효과적인 방법이 될 수 있을 것이다. 그러므로 구회는 기업 부정이 있을 때 '호루라기 부는 사람'을 보호하고 나아가서는 보상도 할 수 있는 법안을 만들게 된 것이다.

이번 호루라기 법안은 우리 한인 사회에도 좋은 자극제가 되는 법안이라고 생각된다. 한인 사회가 미국에서 타민족의 모범이 되는 커뮤니티가 되기 위하여서는 호루라기를 불 수 있는 많은 조직이 우리 커뮤니티에 있어야 한다. 그런 의미에서 시민 참여 연대, 경제 실천 연대, 기독교 윤리 실천 운동등은 보다 밝은 사회를 위하여 우리 이민 사회가 필요로 하는 조직들이다.

공인회계사와 변호사

김윤한

CPA 사무실 잘 운영하고 있는데 왜 법대 가서 고생하려고 하느냐는 동료들의 말을 뒤로하고 법대 도서관을 서성거린 것이 1998년 가을이다. 이때 만난 한국 학생들이 한태호변호사, 김기준 변호사, 정동

완 JD였다. 이분들은 이미 법대를 다니고 있었고 나에게 여러 가지 조언을 해주었다. 대부분 공부 어렵고 또 법대공부 방법은 지금까지 공부하던 것과 다른 방식이라는 겉주는 조언이었다. 하여튼 이 분들의 귀중한 조언은 법대 공부하는 동안 또 시험 보는 동안 많은 도움이 되었다.

1999년 봄부터 공항근처에 있는 University of West Los Angeles에서 1학년을 시작하게 되었다. 이때 아내와 같이 공부를 시작했는데, 사실 내가 법대가려고 한 것은 아내의 career를 만들어 주려고 한 것이 큰 몫을 차지했다. 아이들 둘이 대학교 기숙사에 들어가 빈둥지에서 공허한 마음이 된 아내는 내가 원하는 대로 공부를 하기로 동의하였다. 평소 나의 주장은 여자도 자기 나름대로 하는 일이 있어야 한다는 것이었다. 남편이 하는 일의 보조 역할을 하는 것 보다 커리어를 갖는 것이 더 바람직하지 않겠는가하는 생각이었다.

법대의 밤은 매우 춥고 쌀쌀했다. 원래 LA의 밤은 서늘하지만 공부에 대한 긴장과 피곤 때

문인지 유난히 법대의 밤은 매일매일 싸늘했다. 첫 번째 관문은 1학년에서 2학년 올라가는 것이었는데 상급생들의 말에 의하면 50%가 탈락한다는 것이었다. 일반대학에서의 학점은 A, B가 주종을 이루지만 법대학점은 보통 C이고 B는 잘하는 학생이 받는 정도였다. 평균 C가 안되면 탈락하는 상황에서 첫 학기에 평균 C를 받았다. 너무나 걱정이 되어 배수진을 치고 열심히 하였다. 다행히 1학년 2학기에 민법에서 좋은 성적을 받아 50% 탈락되는 수모는 겪지 않았다. 이때 한구학생 Steven Oh 변호사를 만나 선의의 경쟁을 하면서 공부하였다.

1학년이 지나 2학년이 되니 요령이 생겨 공부도 수월해졌다. 이때 아내와 잘 이해가 안 되는 부분을 서로 discussion도 하고 또 공부 partner가 있으니 한결 공부하기가 수월했다. 그러나 주말에는 꼬박 Southwestern 법대 도서관에서 이른 아침부터 밤늦게 까지 자리를 지켰다.

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이 문제였다. 거주 변호사 시험 합격률은 40~50%로 미국 전 지역에서 가장 낮았고 시험 과목도 Essay 6과목, 실제 Case 분석 Test 2과목, 4지선다 200문제로 3일간 보는 시험이었다. 아내가 한 학기 먼저 졸업했으므로 먼저 시험을 보았다. 첫 번째 실패했을 때는 그럴 수도 있다고 생각했다. 두 번째 실패했을 때 아내의 실망하는 표정이 역력했다. 꼭 변호사가 되어야 하느냐, 또 다른 변호사들은 평균 몇 년 만에 붙었느냐 하고 불만을 토로하기 시작했다. 그러나 과거 시험 경험이 많은 나였기에 내 경험을 얘기하면서 긍정적인 태도를 갖도록 아내를 달랬다. 또 주위의 도움도 있었다. 구경완 CPA/변호사는 본인이 공부하던 책 50권을 모두 주면서 격려해 주었다.

2004년 2월 아내는 세 번째 나는 두 번째 변호사 시험을 보았다. 시험을 본 이후 편안한 생각이 들었다. 5월 발표 일에는 아들의 졸업식을 위해 New Orleans에 가 있었다. Hotel에 Internet이 없기에 Kinko에 가서 합격자 명단을 보는 순간 눈물이 쏟아져 나왔다. 나와 아내가 동시에 합격한 것이다. 1.5세가 시험을 보면 그다지 어렵지 않겠지만 이민 1세로서 언어장벽을 넘어 합격한 것이 자랑스러웠다. LA에 다시 돌아오니 사무실이 온통 축하분위 기였고 주위에 계신 분들도 많이 축하와 격려를 해 주셨다. 내가 낮에는 CPA일하고 밤에만 학교를 다녔으므로 고동원 CPA는 아내가 합격한 것은 인정했지만 나의 경우 동명이인이 아닌지 다시 확인 했다고 한다.

변호사 업무도 CPA와 마찬가지로 많은 경험이 필요하기에 지금은 작은 case부터 경험을 쌓고 있다. CPA업무와 변호사업무는 서로 밀접한 관계가 있기 때문에 많은 경우 서로 협조함으로써 고객에게 좋은 서비스를 제공할 수 있다. 예를 들어 E2 비자의 경우 CPA의 Projection이 있어야 변호사가 일을 마무리할 수 있게 된다.

CPA업무와 변호사업무는 둘 다 보람 있는 일이다. CPA는 재정적으로 고객을 도와주고 변호사는 법률적 고민에 빠진 고객을 도와주기 때문이다. 얼마 전 세무감사를 억울하게 받아 찾아온 고객을 위하여 세무소송을 주정부에 제기한 적이 있다. 고객의 재정이 안 좋기에 도와주는 마음으로 case를 맡은 적이 있다.

이와 같은 방법으로 변호사는 도움을 주지만 CPA도 직, 간접으로 고객의 재정문제를 자문해 줌으로써 사업의 성패에 큰 길잡이 역할을 한다.

비즈니스 측면에서 CPA 고객은 계속성이 있지만 변호사 고객은 계속성이 없다. 한 케이스가 끝나면 언제 다시 그 고객이 올지 모른다. 그런 의미에서 CPA 비즈니스는 좀 더 안정적이라 하겠다. 변호사들이 수입이 차이가 많은데 비하여 CPA들은 그 차이가 적은 것은 고객의 계속성에 있다 하겠다. 또한 CPA업무는 직원들에게 위임하기가 변호사 보다 비



교적 쉽다. 많은 변호사들이 밤늦게 남아서 pleading paper를 작성하는 것을 보면 이를 잘 알 수 있다. 밤늦게 혼자 일하는 것은 변호사들만이 알고 있는 고민일 것이다.

일에 대한 스트레스는 둘 다 있겠지만 스트레스의 종류가 다르다. 변호사들은 손님으로부터 은근히 승소의 압력을 받는다. 또 어떤 변호사들이 경제적 이유로 케이스를 가려서 받을 수 없기에 어떤 때에는 case 답지 않은 case를 맡아서 스스로 고민에 빠지는 경우가 많다. 이에 반하여 CPA는 반복적이고 또 오랜 고객관계로 고객의 상황을 잘 알기에 스트레스를 control할 수 있다.

본인은 앞으로 CPA업무와 변호사 업무를 병행할 것이지만 역시 나의 마음의 고향은 공인회계사이다. 대학교 1학년 때부터 회계학과목을 들었고, 한구에서의 공인회계사 시험 Pass, 삼일회계법인 근무, Georgia에서 회계학 석사, LA에서의 회계업무 20년 등 나의 경력의 거의 회계관련 업무로 채워져 있다.

또한 나의 주변에 공인회계사를 사랑하는 여러분들이 있어 더욱 그렇다. 남가주 공인회계

사 협회를 이끌었던 전 현직 임원들 그리고 전 미주 공인회계사 협회를 이끌었던 전 현직 임원 분들이 그 분들이다. 일일이 명단을 나열할 수 없지만 오영균, 이병향, 조용직 전직 전미주 회장님, 또 김기욱, 헨리김, 김재영, 장봉섭, 최상봉, 정봉식, 최정길, 홍성하, 김병식, 송재선, 김경무, 강신용, 김원철, 임창수 씨 등 전 현직 남가주 회장님들에게 고마움을 표시하고자 한다. 이 분들은 공인회계사 협회에 남다른 애정을 가지신 분들로 아무리 바쁜 일이 있어도 협회일이라면 금방 달려오시는 분들이다.

남가주 한인들의 경제규모가 엄청나게 커지는 것은 최근에 열세 번째 한인은행이 탄생한 것만 보아도 알 수 있다. 교포들이 바른 납세를 할 수 있도록 도와주고 또 고객들의 재정정보를 바탕으로 투자에 좋은 조언을 해 줄 수 있는 공인회계사의 역할은 앞으로도 점점 커진다고 생각된다.

우리 공인회계사들이 긍지를 가지고 실력을 쌓아 나갈 때 위의 목표도 이루어지리라고 생각한다.

Family Tree of LIFE

How to use a "flexible inflexible trust" to control and protect assets

BY ALAN R. EBER

IN EVERY FAMILY, SOONER OR LATER A PATRIARCH ARISES WHO THROUGH the use of artful and prudent planning provides not only for his immediate family, but for generations of family members to come. One planning technique that such a patriarch might choose to employ is the "flexible inflexible trust." This dynamic dynastic estate planning technique supplies both the flexibility to allow

The **flexible inflexible trust** is **unsurpassed** when it comes to building and protecting **wealth**

total control by a patriarch or beneficiary, as well as the power to accomplish the goals that such a patriarch might have. Those goals might include protecting trust assets from creditors, divorce, and the taxman, regardless of the political fluctuations that may affect the estate tax on the federal or state levels.



Not So Stodgy

Estate planning trusts are often considered stodgy instruments that bind beneficiaries to an unresponsive trustee or establish an age-sensitive distribution pattern. The benefits of the most powerful asset protection and tax planning tool available domestically, a non-

self-settled trust, are lost in these trusts. They bind settlers—those who establish trusts—to a document that they cannot amend in order to keep attuned to changing family circumstances. The document may also be drafted without awareness of the tax benefits that trusts can provide. To the sophisticated, these should not be a concern, however. Properly drafted, a flexible inflexible trust allows settlers to control a trust during life, and on death—or earlier, if they desire—permit their beneficiaries to control their inheritances through the generations without subjecting trust assets to estate taxes, unnecessary income taxes, creditors, or divorcing spouses. Moreover, the integration of insurance techniques into the plan allows tax-free growth as well as leveraged use of the Generation Skipping Transfer Tax (GSTT) exemption and guarantees that the untimely death of the patriarch will not adversely affect his or her family. It is quite apparent that wealth inherited in trust is far more valuable than wealth inherited outright.

The flexible inflexible trust is unsurpassed when it comes to building and protecting wealth by saving and shifting tax and by protecting its beneficiaries' assets from creditors or divorce. One of the best ways to save and shift tax is by using the generation skipping transfer tax exemption, which permits setting up a dynastic trust to avoid the imposition of the transfer tax. In 2005, a \$6 million estate, after deducting the \$1.5 million exemption, would suffer \$2,105,000 in taxation. Had that \$6 million been the result of growth in a GSTT-protected trust, no estate tax would have been due. Wealth takes a lifetime to build, and without planning, only a death to dissipate. Leveraging the GSTT via insurance is an excellent use of this tool. Using the tax-free compounding of cash-value life insurance products

over a lengthy period can produce significant wealth. Different family members are in different tax brackets. The flexible inflexible trust can thus shift income from the trusts or parent's high tax bracket into the non-working senior or over 14-year old junior generations' lower tax bracket. By causing the grantor or beneficiary rather than the trust to be taxed, the asset-protected trust principal as well as the GSTT tax-exempt portion of that trust can be allowed to grow and expand. Settling the trust into a no- or low-tax state, can be beneficial in lowering the trust's overall tax bracket. Protecting assets from creditors, predators, and unsuccessful marriages is often the primary reason for setting up a trust.

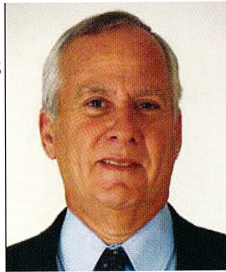


Government taxes may be high, but the "creditor tax" can be 100%. In California, for example, divorce ends more marriages than death. The flexible inflexible trust prevents a child's spouse from sharing in her inheritance. But since asset protection laws and taxation vary

among the states, careful selection of where the trust is settled can enhance a trust's asset protecting capacity and lower a trust's overall tax obligation.

The Ultimate in Asset Protection The non-self-settled trust provides the ultimate in asset protection. In most states an individual cannot self-settle a trust for his benefit that will protect his assets from his creditors. However, his parents can set up an asset-protected trust for him. The beneficiary can be allowed to use trust assets, rather than passing out cash, to enable a beneficiary to purchase assets in his own name. To take fullest advantage of this feature, the trust should be drafted to allow the trustee to acquire homes, businesses and other assets, whether speculative or not, giving the trustee or beneficiary the same type of control he would have if he had received cash

outside of the trust. To the extent cash needs to pass outside the trust, asset protection is achieved by transferring the cash as a loan and having the trust secure its interest. The flexible inflexible trust allows settlors' children the opportunity to shift business opportunities into a trust, affording them asset, divorce, and tax protection. Rather than start a business exposed to creditors or succeed in growing the business and have transfer tax concerns, the GSTT-exempt trust portion of a flexible inflexible trust that was set up for the child by his parents can establish an limited liability corporation to own the business in asset protected and transfer tax free mode. Settlers can maintain control over irrevocable trusts and change the trust's distribution patterns at will by drafting the trust in a discretionary manner, giving the trustee a letter of wishes and by appointing a protector. When settling a flexible inflexible trust, the following issues need to be considered:



A letter of wishes is a communication written to the trustees by the settlor of a discretionary trust. This letter may be amended. Its purpose is to provide guidance to the trustees in the exercise of their trust discretions. It has no legally binding force. It sets out how the settlor would like the trustees to administer the trust both during his lifetime and after his death. Family circumstances change over time. These letters provide guidance on how the settlor would like the trustees to deal with changed circumstances after his death. A protector is a person appointed to oversee the trust. He may be the beneficiary's best friend. The protector has veto power over the trustee with respect to discretionary matters, as well as the power to remove the trustee and appoint alternate trustees. The trust protector holds the power to direct the trustee in matters relating to the trust and will do so if he believes the letter of wishes is not being followed.





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The Advantages Afforded by Time

The benefits of the GSTT exemption are magnified by the length of the trust's duration. By settling the trust in a jurisdiction that has negated the Rule Against Perpetuities, which limits a trust's duration, the flexible inflexible trust can permit assets to remain beyond the reach of estate taxation devastation for countless generations.

The rule against self-settled trusts allows creditors to attach the maximum amount that a trustee might distribute to a settlor-beneficiary. A settlor's interest in property held by such a trust, spendthrift or otherwise, is reachable by his creditors.

The flexible inflexible trust should be set up for a child's benefit by the parents so that the child does not have a self-settled trust. A non-self-settled discretionary trust, in conjunction with a letter of wishes and a protector, is a flexible trust that can adjust to changed family situations and tax laws. Trust assets are protected from creditors; the

beneficiary has no property right that a judge could pass to a predator.

By using the flexible inflexible trust, parents can give their children their inheritance by endowing a child as trustee, with all the rights over trust assets that he would have had if he had been given the trust's assets outright. In addition, he gets creditor, divorce and tax protection unobtainable with outright ownership.

Controlling Beneficiaries

Beneficiary control is accomplished by using a distribution trustee and granting powers of appointment. The beneficiary can be a trustee with broad investment and trust administration authority.

Although he is a trustee, he may not act alone on decisions regarding distributions to himself, therefore necessitating a distribution trustee. This is because certain powers that can be given to an independent trustee would cause tax and creditor problems if given to a beneficiary as trustee.

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The distribution trustee's authority can be limited to approving distributions to the beneficiary. The distribution trustee could be a trusted non-beneficiary friend or an attorney. The beneficiary can be given the power to replace the trustees, thereby maintaining the beneficiary controlled feature of this trust, as long as the replacement distribution trustee is not a related or subordinate party. This strategy creates a superb asset and divorce protection shield. Powers of appointment, which provide an individual with the flexibility to rewrite trusts, can change the trust's distribution pattern. There are two types—a general power, and a limited, or special, power of appointment. The settlor may convey these powers to a beneficiary.

A special power of appointment eliminates control interference of remote beneficiaries by giving the beneficiary or trustee the power to disinherit complainers. The power to appoint is the power to remove. This power can be exercised by the beneficiary in favor of anyone except, his estate or creditors, or creditors of his estate without causing estate inclusion. Its prime importance is to permit the trust to be reformulated to best fit a family's changing needs. This power doesn't cause property to be included in the powerholder's estate for federal estate tax purposes and can be given without adverse tax consequences.

Providing Flexibility

The virtually unrestricted ability to amend the trust adds flexibility to adapt to changes in the law, family circumstances, or the attitude of the primary beneficiary, at least equal to outright ownership, and, in many instances, in excess of outright ownership.

For example, the trust could acquire a home for a beneficiary's use without adverse tax consequences. Without a trust, his parents would have to acquire the home. Unlike the rent-free use of a home owned by a trust, the rent-free use of a home owned by parents could have adverse gift tax consequences. In addition the home would be included in the

parent's estate.

The flexible inflexible trust can be one of the most powerful asset protection tax planning tools available. It is an amendable, non-self-settled trust, attuned to changing family circumstances. It permits settlors to control it during life and, on death, permit their beneficiaries to control their inheritance without subjecting trust assets to estate tax, unnecessary income tax, creditors, or divorcing spouses. Wealth inherited in trust is far more valuable than wealth inherited outright. The flexible inflexible trust is unsurpassed when it comes to building and protecting wealth.

Alan R. Eber, LL.M (Taxation) is an attorney in Encino, California, specializing in estate planning and asset protection. He can be reached through his Web site at www.assetprotectionlaw.com, by e-mail at alaneber@assetprotectionlaw.com

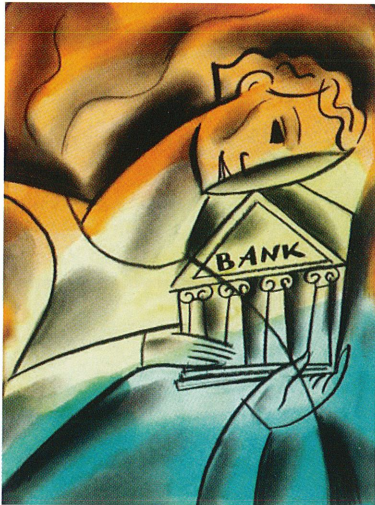
미성년의 자녀가 있는 경우의 트러스트

Nalee Kang, CPA

우리는 여러 가지의 이유로 트러스트를 설립합니다. Probate을 피하기 위해서 설립하기도 하고, 사망후 재산분배의 효율성을 위해서 하기도 하며, 제 3자로부터 (IRS를 포함해서) 재산을 보호하기 위해서 하기도 합니다. 하지만 무엇보다도, 미성년의 자녀를 두고있는 부모의 경우 트러스트의 설립은 매우 중요합니다. 여기서 미성년의 자녀가 있는 경우 중요한 guardianship과 fiduciary의 개념과

역할, 그리고 트러스트설립의 장점에 대해 살펴보겠습니다.

Guardianship



만일 부모가 모두 사망한다면 법원이 미성년자의 guardian을 지정하게 되어있습니다. 물론 부모의 유언장에 정해놓은 guardian이 있다면 그사람이 guardian이 되는 경우가 일반적입니다. 만일 부모중 한명만 사망한 경우

는 살아있는 사람이 자동적으로 미성년 자녀의 guardian이 됩니다. 이혼한 부부의 경우도 마찬가지로 이혼한 전남편이나 전부인이 자동적으로 미성년 자녀의 guardian이 됩니다. Guardian은 개인으로서 고인의 미성년자녀에 대해 경제적인 책임은 없습니다. 미성년 자녀를 위해 자금이 필요한 경우, 미성년자녀의 재산을 관리하도록 지정된 fiduciary가 필요한 자금을 제공하는 것이 일반적입니다.

Fiduciary

미성년자녀는 법적으로 재산을 다루는데 많은 제약이 있으므로 부모의 사망시에 미성년자녀의 재산을 관리하는 fiduciary가 지정됩니다. Fiduciary로는 고인의 estate guardian이 지정되기도 하고, 트러스트가 설립되어 있는 경우 trustee가 되기도 합니다.

고인의 estate guardian이 fiduciary가 되는 경우 만일 부모의 사망시 모든재산이 직접 미성년의 자녀에게로 이전되도록 되어있다면, 고인의 estate guardian이 fiduciary가 되어 재산관리를 도맡게 됩니다. 이 경우 다음과 같은 단점이 있습니다.

1. Guardianship bond를 사야합니다.

2. 재산의 처분이나 투자, 분배시 법원의 허락을 받아야 합니다. 이 과정으로 인한 추가비용 부담과 시간의 소요가 예상됩니다.
3. Guardian은 정기적으로 법원에 회계장부를 제출해야 합니다. 이 과정으로 인한 추가적인 회계사와 변호사비용이 발생합니다.
4. 자녀가 여러명 있을 경우 재산을 각각의 자녀별로 구분하여 관리하여야 합니다.
5. 미성년의 자녀가 18세가 되었을 때 재산을 모두 분배해야 합니다. 18세는 법으로 정해진 나이로 그 재산의 규모와 자녀의 능력에 상관없이 모든 재산이 자녀에게 이전됩니다.
6. Guardian이 관리하는 모든 재산에서 발생한 이익에 대해 그이익이 배당되지 않았더라도 미성년자녀가 그 이익금에 대해 세금보고를 하여야 합니다.
7. 미성년의 자녀가 성년이 되기전에 사망한 경우 모든 재산은 자녀의 probate estate에 속하게 됩니다.

트러스트를 설립하여 trustee가 fiduciary가 되는 경우

트러스트를 설립하여 재산을 관리하는 경우 고인의 estate guardian이 재산을 관리하는 과정에서 생기는 단점들이 보완되며, 더욱 유연하고 능동적으로 미성년자녀의 필요에 대처할 수 있습니다. 트러스트를 이용하여 생기는 장점들은 다음과 같습니다.

1. Guardianship과 같은 bond가 요구되지 않습니다.
2. 재산의 처분이나 투자, 분배시 법원의 허락을 요구하지 않습니다. 그러므로 이 과정으로 인한 추가비용 부담과 시간의 소요가 없습니다.
3. 미성년자녀를 위한 재산의 분배가 용이하며 미성년의 자녀가 성년이 된후에도 계속적으로 트러스트가 재산을 보관, 관리할 수 있습니다. 많은 경우 자녀의 대학진학이나 결혼, 또는 좀

더 성숙된 나이에 재산을 분배하도록 합니다. 이런 재산분배는 trust 조항에 따라 결정되며, trust조항은 부모 생전에 자녀에게 가장 알맞은 방법으로 정할 수 있습니다.

4. 자녀가 여러명있는 경우도 각각 별도의 트러스트를 설립할 필요가 없으며, 그로인해 각각의 자녀가 같은금액을 분배받는 것이 아니라 상황에 따라 적절한 분배가 이루어질수 있습니다.
5. 트러스트에서 발생한 이익에 대해서는 그이익이 배당되는 한도내에서 미성년자녀가 세금보고를 하고 배당되지 않은 부분에 대해서는 트러스트가 세금보고하도록 되어있습니다.

물론트러스트의 fiduciary가 재산관리를 잘못 관리하여 자녀가 성년이 되었을 때 분배받을 것이 아무것도 남아있지 않을 수 있습니다. 이런 경우는 고인의 estate guardian이 fiduciary가되어 법원의 허락으로 재산의 처분과 투자, 분배를 하는 것이 나올 수도 있습니다. 그러므로트러스트설립시 누구로 fiduciary를 만들것인지에 대해 그리고 트러스트조항에도 신중해야 할 것입니다.

FASB NO. 123R (REVISED 2004) REQUIRES OPTIONS EXPENSING

JAE K. SHIM, PH.D.
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CALIFORNIA STATE UNIVERSITY, LONG BEACH

FASB 123R now requires a public entity to measure the cost of employee services received in exchange for an award of equity instruments based on the grant-date fair value of the award (with limited exceptions). That cost will be recognized over the period during which an employee is required to provide service in exchange for the award—the requisite service period (usually the vesting period).



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No compensation cost is recognized for equity instruments for which employees do not render the requisite service. Employee share purchase plans will not result in recognition of compensation cost if certain conditions are met; those conditions are much the same as the related conditions in FASB 123. A nonpublic entity, likewise, will measure the cost of employee services received in exchange for an award of equity instruments based on the grant-date fair value of those instruments, except in certain circumstances. Specifically, if it is not possible to reasonably estimate the fair value of equity share options and similar instruments because it is not practicable to estimate the expected volatility of the entity's share price, a nonpublic entity is required to measure its awards of equity share options and similar instruments based on a value calculated using the historical volatility of an appropriate industry sector index instead of the expected volatility of its share price. The grant-date fair value of employee share options and similar instruments will be estimated using option-pricing models (such as the Black-Scholes or the Lattice method of valuation).

Note:

1. FASB 123R eliminates the alternative to use the intrinsic value method of accounting that was provided in FASB 123 as originally issued.
2. This revised rule goes into effect for big companies June 15, 2005 and for smaller companies—so-called SB filers—December 15, 2005.
3. Companies will have to report all new stock-option grants immediately. Options awarded during the past three years will be phased in on a prorated basis.

The Black-Scholes Problem and Other Lattice-based Option Models

The Black-Scholes Model, however, is widely considered to overstate the value of employee stock options by an unacceptable margin. That's because the model does not take into account the essential differences between traditional exchange-traded stock options and those granted to employees. Unlike conventional options, employee options are subject to vesting schedules and forfeiture conditions, and cannot be transferred. As a result, they are invariably exercised before their usual 10-year term expires. These characteristics reduce the value of an option. Note: The FASB does not specify a preference for a particular valuation technique or model in estimating the fair values of employee share options. It recognizes, however, that a lattice-based method can take into account assumptions that reflect the conditions under which employee options are typically granted. The binomial model is the most commonly used lattice-based method, but other methods may be better suited to compensation programs that link vesting to specific performance objectives. Each of these models is outlined below.

Binomial. Unlike Black-Scholes the binomial method divides the time from the option's grant date to the expiration date into small increments. Since the share price may increase or decrease during any interval, the binomial model takes into account how changes in price over the term of the option would affect the employee's exercise practice during each interval. The binomial model can also consider an option grant's lack of transferability, its forfeiture restrictions, and its vesting restrictions — even for options with more-complicated terms such as indexed and performance-based vesting restrictions.

Trinomial. The trinomial model goes a step further by allowing for the underlying stock price to either remain unchanged or move up or down. That's useful for valuing performance-based options that vest only if the stock price exceeds a certain level over time.

Multinomial. This model can take many more factors into account than either the binomial or trinomial framework. Such additional flexibility may be required to value options that cannot be exercised unless the underlying stock price exceeds the performance of one or more indices. But when there are more than two such sources of uncertainty, a Monte Carlo simulation may be preferable, since it is easier to apply than lattice models.

Note: For one thing, the new models are far less familiar than Black-Scholes, so users must spend considerable time figuring out how to use it. Black-Scholes is so widely used that there are lots of software packages, for laptops and handheld computers, to run the model.



The Binomial Model

Lattice-based option pricing models, such as the binomial mode, can explicitly capture assumptions about employee exercise behavior over the life of each option grant, expected changes in dividends, and stock volatility over the expected life of the options, in contrast to the Black-Scholes model, which uses weighted average assumptions about option characteristics.

EXAMPLE*: THE BINOMIAL MODEL

Exhibit 1 illustrates a simple two-year lattice model that portrays the expected price changes of the security, along with their chance of occurrence. Each node of the lattice reflects an expected share price at year-end. These expectations are developed through analysis of the security's historical volatility and its expected future volatility. Volatility, measured by the expected standard deviation of the returns of a security, then determines expected share price

fluctuations over time. In turn, these potential share price fluctuations are a major factor in estimating option value. Exhibit 3 presents an example with a 64% probability that the price of the security will increase 15% (from \$30.00 to \$34.50) and a 36% chance that the price will decline by 13% (from \$30.00 to \$26.10). Assume that the probabilities and percentage price increases are the same for each of the two years. For example,

if the price does go up to \$34.50 in year 1, there is a 64% chance that it will go up again in year 2 (to \$39.68) and a 36% chance that it will decline in year 2 (back to \$30.00).

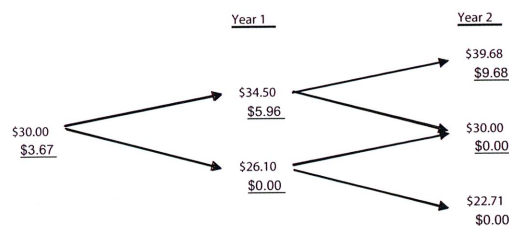


Exhibit 2 shows how option values are determined. Assume that fully vested stock options have been granted with an exercise price of \$30.00 and a term of two years.

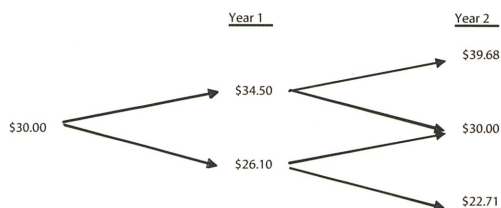
Therefore, the holder of the option can buy shares of stock for \$30.00 until the option expires in two years. If the share price increases in both years 1 and 2, the option holder will net \$9.68 (\$39.68 - \$30.00) upon exercise of the option. If the share price stays at \$30.00 a share or falls to \$22.71 at the end of year 2, the option holder will not exercise, as the share price does not exceed the exercise price.

EXHIBIT 1

TWO-YEAR BINOMIAL LATTICE

If the share price has a value of \$30.00 or less at the end of the two-year period, there is neither gain nor loss for the holder. The option simply expires unexercised. At the time of the option grant, the option clearly has value. It is more likely that the stock will have a value greater than \$30.00 at the end of two years, and the holder will not suffer any loss if it does not.

The mechanics of calculating the option value at the time of grant begin by determining the option value at the expiration period and working backward to the date of the grant. At the end of year 1, the share price will have either increased to \$34.50 or fallen to \$26.10. If the share price is \$34.50 at the end of year 1, the option holder has an asset that will either rise to \$9.68 (share price of \$39.68) or fall to \$0 (share price of \$30.00). The respective probability of these outcomes is 64% and 36%. Using a 4% risk-free rate as a time value of money dis-



count rate, the value of the option in year 1 will be \$6.05:

$$[(64\% \times \$9.68) \div 1.04] + [(36\% \times \$0) \div 1.04] = \$5.96$$

Continuing to work backward in time, the value of the option at the grant date is based upon the option values at the end of year 1. The calculation is the same as in the previous example, and yields an option value of \$3.67, the present value of \$5.96 and \$0 weighted by the probabilities of each outcome occurring:

$$[(64\% \times \$5.96) \div 1.04] + [(36\% \times \$0) \div 1.04] = \$3.67$$

EXHIBIT 2

TWO-YEAR BINOMIAL LATTICE WITH OPTION VALUES

Thus, the option value is based upon the expected share price at each node on the lattice. If the historical volatility is higher, and the future volatility is projected to be higher, other things being equal, the option will have more value; the higher the probability of an increase in stock price, the higher the value of the option. There is no real risk of loss to the option holder, who will simply not exercise the option if the stock price declines. Therefore, as long as there is a positive probability that the price will rise above the exercise price, the option has value.

The analysis above illustrates the value of transferable options at the grant date. Employee stock options, however, are not transferable, and this affects their value.

Nontransferability and Early Exercise

In the above example, if the share price has risen to \$34.50, the option would be worth \$5.96, factoring in the possibility of a rising price in year 2. But if the option can-

not be sold, the option holder must choose between exercising the option at the end of year 1 and holding it until the end of year 2. If the holder opts to exercise the option at the end of year 1, the proceeds would be only \$4.50.

Because they cannot sell the option in the open market, many employees will exercise their options early to realize a gain rather than take the chance that the share price will fall. In other words, the option is worth only \$5.96 at the end of year 1 if it can be sold. There is a positive probability that the stock will rise in year 2 and be worth \$9.68, but it also might decline and become worthless. Employees may prefer to take a profit of \$4.50 rather than risk losing all the potential value. The result of the potential early exercise is that the grant date value of the option falls from \$3.67 to \$2.77:

$$[(64\% \times \$4.50) \div 1.04] + [(36\% \times \$0) \div 1.04] = \$2.77$$

The reduced option value is due to the increased likelihood of early exercise that nontransferability represents.

Under the fair value method, the fair value of employee stock options at the date of grant would be amortized as compensation expense over the compensatory period (from the date of grant to the date the options are initially exercisable).

*This example was adapted from Barenbaum, et. al, "Valuing Employee Stock Options Using a Lattice Model," The CPA Journal, December 2004, pp. 16-20.

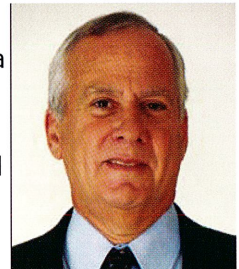
Jaе K. Shim, Ph.D. is a professor of accounting and finance at California State University, Long Beach and CEO of Delta Consulting Company, a financial consulting and training firm. Dr. Shim received his M.B.A. and Ph.D. degrees from the University of California at Berkeley (Haas School of Business). Dr. Shim has been a consultant to commercial and nonprofit organizations for over 30 years. Professor Shim has also published numerous articles in professional and academic journals. Dr. Shim has over 50 college and professional books to his credit.

The Foreign Trust Tax Solution

By Alan R. Eber

THE TOPIC OF FOREIGN TRUSTS CONJURES up alluring images of secret bank accounts in exotic locations far from the prying eyes of the Internal Revenue Service. However, a U.S. tax-compliant offshore strategy is completely legal and can provide unparalleled asset protection while also reducing income and estate taxes. Wealthy individuals have used compliant offshore tax planning for years, and more recently these techniques have become available to those of more modest means. Although a foreign trust can save taxes through legitimate strategies, protect assets, and provide privacy, there are a number of pitfalls that the professional needs to consider.

The offshore asset protection and tax havens exist because of a powerful demand by individuals in many countries to shelter their wealth from a variety of perceived threats. In the U.S. these threats are often the product of a legal system that unfairly targets those with wealth. In other countries with fewer lawyers and lawsuits, the threat of litigation is not the primary concern. Instead, asset protection and privacy issues are related to the political and economic climate that poses risks to an individual's life and livelihood, such as kidnapping, confiscation, exchange controls, and so forth. A Foreign Asset Protection Trust (FAPT)



is a discretionary irrevocable trust that is set up in a country other than the United States and that contains sophisticated drafting and, sometimes, tax planning to protect its assets. Proper drafting can endow the FAPT with the ability to take advantage of choices offered by using the laws of various countries, always with an eye on emerging international standards. United States tax structuring can provide the FAPT with the ability to legally take advantage of benefits offered in the Internal Revenue Code and Treasury Regulations—advantages not available to the domestic-only planner. Although it is almost universally understood that because of IRC §672-679, the foreign trust is a grantor trust and is therefore tax-neutral, to the professional advisor, this may not be exactly the case.

Making FAPTs Less Foreign

Let's review the history and structure of trusts, especially FAPTs. Trusts were first formed centuries ago when members of monastic orders, having taken vows of poverty, were embarrassed by their huge land holdings. To resolve their moral problem, they asked the king to hold and own the land or take "legal title" for their benefit, which was called an equitable interest. The king was the trustee and the monks were the beneficiaries. All foreign trusts transfer legal title to a trustee, generally a trust company, whose business is operated (OR DOMICILED?) outside the U.S. The person setting up the trust is the settlor or grantor. The trust is created in the form of a legal document—a deed of trust or trust deed. The protector is a person, appointed under the trust, with whom the trustee may consult when administering the trust and who has the power to negate actions the trustee may want to pursue. The protector, who can be a foreign or U.S. person, including a best friend (OF THE GRANTOR?), can be authorized to remove trustees and appoint non-U.S. trustees. The trustee is a fiduciary who is governed by stringent rules to act in the best interests of the beneficiaries and can be discharged by

the protector. Assets may be held by financial institutions, which could be required to sign off on any asset transfer, and are insured. All persons with possible access to trust assets can be bonded.

The letter of wishes or, in cases where privacy is paramount, a memoir to the attorney, is an informal and confidential letter from the settlor that provides guidance as to how the trustee might exercise his discretion. Included in the trustee's discretion is the power to accumulate or distribute income among a specified class of beneficiaries. The letter of wishes is not part of the trust and can be amended. The trustee holds trust property in accordance with the obligations imposed by the trust deed and administers trust assets. Beneficiaries can be named specifically or generally as members of a class (e.g., "my descendants"), and beneficiaries have recourse under the law to compel the trustee to act according to the terms in the trust deed. With an FAPT, the settlor is in control. While the FAPT gives the trustee discretion to make decisions, the letter of wishes suggests how the trustee should exercise that discretion. The settlor appoints a protector with power to enforce the letter of wishes. If the settlor dies, the FAPT can, if so drafted, act like an asset protected living trust. During the grantor's life, the FAPT is income tax-neutral, though not necessarily estate tax-neutral. However, an FAPT loses its grantor trust status at the grantor's death—since the grantor is dead, there is no grantor to tax—and the grantor's estate will not be treated as owner of the trust assets. On death, the grantor trust becomes a Foreign Non-Grantor Trust (FNGT) and its income is taxed by the country in which it is located. The U.S. can only tax distributions that the trust makes to U.S. taxpayers. If the FNGT is situated in a zero-tax jurisdiction, its assets will grow tax-free. If FNGT assets are distributed to U.S. beneficiaries, they may or may not be taxed, depending on how the FAPT was structured. If not structured for tax benefits—and the vast majority of FAPTs are not—after the death of the settlor a nondeductible interest charge will

be applied to the tax attributable to a distribution multiplied by the number of years the distribution was accumulated in the FNGT. Throwback rules will affect the tax as well. The purpose of the throwback rules is to prevent avoidance of U.S. income taxes through the accumulation of income taxed at lower rates than the beneficiary would have paid if the income had been distributed. The tax and interest due may quickly reach 100% of the distribution.

The planning potentials for an FAPT are significant. Beneficiaries are exempt from the receipt of a "specific sum of money," according to the IRC? , OR IS THIS THE WORDING OF THE TRUST DOCUMENT?.

This requirement is met if the distribution is not paid only from current or accumulated in-

come, and is paid in three or fewer installments. On a yet more sophisticated level, consider structuring distributions of accumulated income as a specific sum of money via an entity. For example: "Bequests to decedent's son of decedent's interest in a partnership...are bequests of specific property..." Regulations require the amount of money or identity of property to be "ascertainable," not "known;" e.g., a bequest of a partnership interest

is a specific bequest of ascertainable property, although the value of the interest may in fact be different on the date of distribution than on the date of death. AGAIN, ARE THESE QUOTES FROM THE IRC OR SAMPLE WORDING OF THE TRUST DOCUMENT?.

Foreign Advantages

Foreign asset protection trusts have many other advantages as well. For instance, one of the best is that the FAPT is established under

The letter of wishes suggests how the trustee should exercise the discretion granted under the FAPT.

laws of a foreign country that may be more favorable to asset protection and privacy objectives than U.S. laws. Another advantage is that some countries provide for a short statute of limitations on fraudulent conveyances. Most states, such as California, have four-year statutes, so a creditor can attack asset transfers up to four years after they took place. In short-statute jurisdictions that exist in a number of favorable trust locations, a creditor attack can only take place during a limited time after the transfer occurs.

Another benefit is that some jurisdictions require the difficult "beyond a reasonable doubt," rather than the lesser "preponderance of the evidence" standard to prove fraudulent conveyance. It behooves the professional to determine which jurisdiction is most advantageous to a particular client's situation.

Some foreign courts will not enforce a judgment rendered in the U.S. To prosecute a claim, the creditor would have to go to that country and retry the case, which provides the trust with added protection.

Another advantage is that U.S. courts have no capacity to exercise authority over a foreign person who has no presence or assets in the U.S. If a U.S. court ordered a foreign trustee to return assets, the trustee who is responsible for preserving trust property would refuse to comply.

In addition, FAPTs allow the settlor to be a beneficiary, permitting settlors to retain a



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degree of enjoyment over trust assets that would not be permitted in most states. In those states that protect self-settled trusts, there is as yet no judicial authority as to the degree of protection they afford, and in federal matters such as bankruptcy, federal law most likely would preempt state law. Oftentimes, clients want to know if FAPTs are truly creditor-proof. If a settlor retains control over the appointment of the trustee, or if domestic trust protectors have the power to remove and replace the trustee, and if the trust does not specifically prohibit the settlor or protector from appointing a U.S. trustee, a U.S. court may require these parties to appoint a U.S. trustee. If they refuse to obey, the judge can hold them in contempt. Once the trustees are under the court's jurisdiction, the court can require them to repatriate assets. An FAPT will be most effective if the settlor relinquishes direct control over the trust and its trustees. When creditors or litigants come forward after the client has set up the foreign asset protection trust, they can only obtain assets that belong to the client. However, since, assets in an FAPT no longer belong to the client, the creditors or litigants might try to set the transfer aside as fraudulent. This could be frustrated under U.S. law by the passage of time (in California it would be four years, for example), and if not frustrated by domestic law, the creditor or litigant would still have to prevail under the laws of the FAPT jurisdiction, which are often onerous to creditors. Even though the client complies with all court orders, the trustee would properly not heed directives issued by a client under duress, which is the initiation or threatened initiation of legal action against the settlor, the FAPT, any of the trust's assets, or the trustee. Trustees act to protect the interests of the beneficiaries and U.S. courts do not have jurisdiction over the trustee. An attempt to bring action against the FAPT in the foreign jurisdiction that makes some headway would cause it to be moved to another jurisdiction. A litigant is likely to seek settlement, since the cost of pursuing an FAPT in general or an FAPT as it moves to different

jurisdictions is often prohibitive. A U.S. judge can order a client to return assets and back these orders with a contempt charge if clients fail to comply.

A major issue is often ability to return transferred property pursuant to court order. FAPT agreements require the trustee to disregard communications issued under duress. As a result, the settlor has no right to reacquire trust assets. Unless the settlor retains certain powers or the trust is poorly drafted, a court cannot compel an action that an individual has no power to perform. A foreign trustee will often not respond to orders from a court outside of its jurisdiction.

The result may be different when an FAPT is used to defraud creditors or the IRS or to protect the proceeds of criminal or fraudulent activities. A judge may ignore provisions of the trust and apply the leverage of a contempt order. The FAPT is not designed to allow individuals to defraud others or engage in tax evasion or criminal conduct. Clients want protection against future creditors and unscrupulous predators. The foreign asset protection trust may in many cases provide the ideal defense.

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Paystub Red Flags To Watch For

Kenneth Yoon, Esq.

As a result of years of pro-employee laws, California has seen a litigation explosion of 'wage and hour' lawsuits brought by former employees. Because

California law is so pro-consumer and anti-employer, nearly all businesses make easy targets for these types of lawsuits.

Basically, California encourages employers to strictly follow all of its labor laws by harshly punishing anyone who violates them and richly rewarding any employee who sues based on them. This incentive structure is making the situation progressively worse as more and more employees learn of the easy money to be made suing their employers.

Prevention is the key. Oftentimes employers do not recognize the risk until it is too late. If you provide payroll accounting services, however, you have an opportunity to identify some of these problems and bring them to your clients' attention. Based on my experience, the following is a list of some red flags to watch for as well as some common mistakes.

Handwritten Time Cards

Recording employee hours by hand is fine, except that consistently having the same in and out time can give an employee the argument that he was told to put the same times each day. Handwritten time sheets should have the exact time in and out shown, not a rounded number. The employer may round time in calculating pay but the employee should not round. In addition, handwritten time sheets should be signed and dated by the employee.

No Lunches

Time cards should show that the employee took at least a half-hour lunch. Many companies are not strict about lunches and also not strict about recording lunches. If time cards do not show a lunch, the employer is at risk that an employee may later claim he never received a lunch.

Bonuses

If an hourly employee receives a nondiscretionary bonus, bonus should be factored into that employee's hourly rate of pay. If you see regular bonuses for hourly employees, that is a warning sign that the bonus is not discretionary and it instead tied to some performance target.

Misclassification as Exempt

Just because an employee is being paid in the form of a fixed salary does not mean that the employee is exempt from overtime. If an employer has a large number of salaried exempt employees, especially if in a non-professional business, that is a warning sign that the employer may be misclassifying employees as exempt.



In addition to these red flags, some of the common errors found in paystubs include:

- “ Failing to list the hourly rate and the number of hours worked; often, companies forget to group the hours worked with the corresponding hourly rate;
- “ Failure to show the period starting date; instead only showing the period ending date;
- “ Misidentifying the employer by showing the fictitious business name rather than the actual owner's name. Technically, fictitious business names should not be used on the paystub, but rather the actual name of the sole proprietor, corporation, LLC or LP should be used;

These are just some possible warning signs. Because of the complexity and volume of California wage and hour law, nearly every employer is in violation of something. The penalties for these violations are also quite severe. Any employee can sue for even a minor violation of the paystub information

requirement and often be entitled to \$4,000 plus attorneys' fees. Because of other penalties, all of which are cumulative, a typical employee may claim approximately \$10,000 in penalties alone, aside from any missed overtime.

If you are concerned about any of these warning signs or concerned in general, please refer your client to experienced employment law counsel.

Kenneth H. Yoon is the principal of the Law Offices of Kenneth H. Yoon and has been practicing in the area of employment law for the past several years. One Wilshire Boulevard, Suite 2200, Los Angeles, California 90017, Tel.: (213) 612-0988.

[Please insert the following text into a separate box near the front of the article]

California requires the following information be provided on each paystub:

- " Gross wages earned;
- " Total hours worked (exempt salaried employees excepted);
- " Piece rate units and rate, if applicable;
- " All deductions, including taxes, insurance, etc. as well as employee authorized deductions;
- " Net wages earned;
- " The inclusive dates of the period for which the employee is paid;
- " The name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement;
- " The name and address of the legal entity that is the employer; and
- " All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Financial Statement and Loan Decision in Korean-American Community Bank

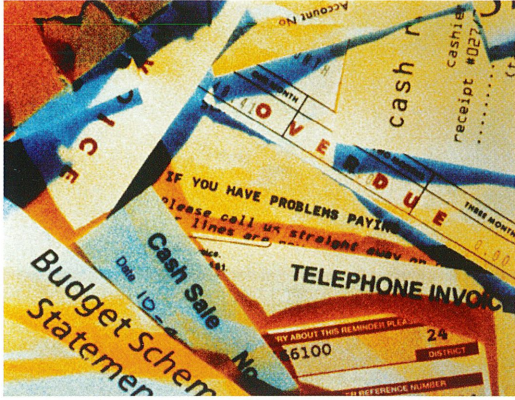
Neung Jip Kim, Ph.D., CPA, Professor of Accounting, CSULA

Introduction

The banking industry in the United States is split into two groups: large banks and smaller community banks. Community banks represented 89 percent of all banks at the end of 2002 and accounted for 34 percent of banking offices, 19 percent of bank deposits, 16 percent of bank loans, and 15 percent of bank assets. While community banks account for a relatively small share of total banking activity in the United States in the aggregate, they remain highly important in certain communities and larger parts of the country. While there is no single definition of "community bank," most people think of community banks as having two key characteristics - they are small in size, and they do most of their business in the community in which they are located. Based on this general description, Korean-American banks are community bank. Korean American banks have grown significantly over the past decade and have played a key role in the economic growth of the Korean-American community, but are still relatively small in size and typically serve smaller businesses within the community. In this paper, I examined whether a business's financial statement is an important variable in the loan decision process in Korean-American community banks.

Literature Review

A number of studies examined the community banks' lending models. The research found that large banks rely on hard financial



information, computer models, and centralized decision-making as the basis of loan decision, while small banks focus more on personal contact, community ties, and close lender-borrower relationships.

Berger and Udell (2002) identified four principal, distinct lending technologies - financial statement lending, asset-based lending, credit scoring, and relationship lending. Many studies found the importance of relationship lending in community banks. (Cole, Goldberg and White 2004, Elyasiani and Goldberg 2004, Ebben 2004, Barrett 1990) The main reasons why community banks depend more on relationship lending are that small business often do not have reliable financial data available for lending institutions and community banks have a better understanding of local business and economic conditions through informal contact with business owners. (Feldman 1997) Davidson (2001) found that when dealing with financial statements, the level of different types of attestation did not have significant influence on loan decisions. The implication of this study is that loan officers may not have enough knowledge of the differences among audits, reviews, compilations and information that are prepared by management.

Findings

In order to verify the findings above I interviewed six bank officers from five Korean-American banks. All five interviewees have extensive experience in the loan decision-making process either as a loan officer, executive or loan committee member. The interviews centered around one question, "To what extent are the financial statements utilized in loan decisions at your bank?" Four out of five banks do not require financial statements for small loans like loans under \$200K, and even for larger loans exceeding \$1,000K, bankers may still shy away from reliance on financial statements. Bankers find many of the statements to be unreliable. Although the bank officers are aware of the different levels of attestation and understand the benefits of assurance services by independent CPAs, due to intense competition among Korean-American banks, they are afraid that putting these requirements on borrowers may cause borrowers to take their business to a bank that has less stringent requirements. This, in-turn, puts more weight on non-financial data such as a business owner's experience and credit score, net equity of any guarantors, on-site observation of operations, and even rumors in the decision making. However, for asset-based lending most banks require audits of the assets used as collateral (e.g. receivables and inventories). Additionally, banks spend more resources in the loan origination process than in the monitoring process.

Conclusion

Korean-American banks depend more on non-financial data than financial statements in making business loan decisions. Nevertheless, as Korean-American banks grow, the need for stricter assurance requirement is inevitable. Larger lending capacity will enable Korean-American banks to make larger loans. Larger loans will lead

to higher risks, and higher risk can only be mitigated against through the analysis of a borrower's financial stability. If the primary



focus of Korean-American banks shifts from small, local businesses to servicing larger businesses seeking of larger loans, banks may no longer fear losing the smaller businesses due to stricter financial statement requirements. The banks will be able to impose certain

requirements on smaller businesses as well. Even now, some unsecured business loans are for millions of dollars, and bank executives feel that some forms of assurance on financial statement is necessary for the effective loan management. The growth trend may open up opportunities for new banks to enter into the market and service the smaller businesses, but if the barriers of entry can withstand an inflow of new banks, the business opportunity for Korean-American CPAs will grow as the need for assurance services increases.

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개정된 파산법

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Law Offices of Kelly R. Cha

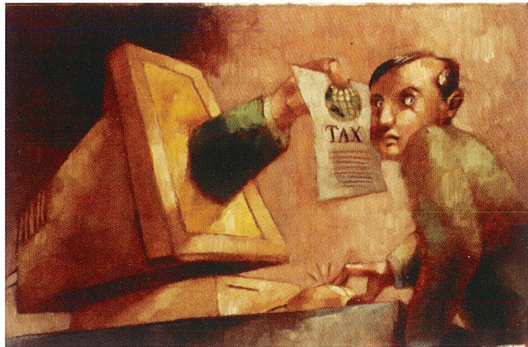
1. Means Test for Chapter 7 Eligibility

10월 17일부터 개정된 파산 법안중 개인 파산에 제일 큰 영향을 주는 조항은 개인들의 파산 가운데 Chapter 7의 자격 조건입니다. 10월 17일 전에는 본인이 부채를 변제할 경제적 능력이 없다는 단순한 증거만 제시하면 누구나 기본적인 본인 재산은 지키면서 거의 모든 부채 탕감이 가능했지만 이제는 어느 정도 Income 이 있다면 법원에서 정한 Means Test를 통해 Chapter 7 조건을 충족시켜야 Chapter 7 이 가능하고 또 그렇지 않다면 Chapter 13 으로 신청을 하게 됩니다. 참고로 Chapter 13은 5년 동안 Income과 Expense를 계산해서 부채의 일부나 전부를 갚게 하는 제도입니다.

예를 들자면 Means Test는 IRS에서 정해진 National Median Income 과 California 주 Median Income으로 파산하는 하는 사람들

의 소득이 중간 정도를 넘는지 보고 또 모든 생활비용을 정해서 (e.g. National Standards for Food, Clothing, Utilities, Housing, Auto etc.) 한 달에 어느 정도 빚을 갚을 수 있는 능력을 보게 됩니다. Means Test 는 당연히 식구 수에 영향을 줄 수 있습니다. 그리고 서류 검사가 당연히 예전보다 무척 까다롭고 많은 증거 서류를 제출하게 됩니다.

2. Mandatory Credit Counseling



파산 신청자들은 개정된 법으로 Credit Counseling 교육을 의무적으로 받게 됩니다. 법원에서 지정된 Credit Counseling Centers를 통해서 의무적으로 받아야 하고 경우에 따라 Internet으로 받을 수도 있습니다.

3. Scope of Discharge

파산 신청자들이 파산한 날부터 60일 전에 구입한 luxury goods은 파산에 포함 안 될 수도 있습니다. 그리고 파산 70일 전 \$750 까지의 cash advance는 파산이 안 될 수도 있습니다.

4. Serial Filing

지난 4년 동안 파산 (Chapter 7) 하신 신청자들은 Chapter 13 신청 자격을 박탈하게 됩니다. 또 지난 2년 동안 Chapter 13을 하신 분들은 Chapter 13 다시 하실 수 없게 됩니다. 그리고 지금 부터는 파산 신청은 8년 마다 하실 수 있게 됩니다. (전에는 6년 마다 파산이 가능했습니다.)

5. Homestead Exemption

파산 신청 하신 분들이 소유하신 집은 home-

stead 가 가능 하지만 (\$50,000에서부터 \$125,000까지) 구입한지 1,215일 지난 부동산만이 가능합니다. 당연히 상업 건물이나 땅은 제외되고 집 Equity 가 \$50,000에서 \$125,000 안에서만 가능합니다. Single 일 경우 \$50,000, 부부나 head of household는 \$75,000, 또는 연세가 많으시던가, disable, 아니면 저 소득자 등등에 해당 하신 분들은 \$125,00까지도 가능 합니다.

6. 증거 서류

법이 개정되기 전에는 세금 보고를 하지 않아도 파산 자격에 문제가 없었지만 지금은 세금 보고를 혹시 안 하셨다면 세금 보고를 꼭 하시고 법원에 제출 하지 않으면 파산이 기각이 됩니다.

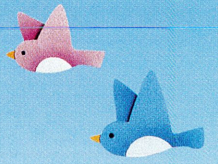
7. 개정된 법 개요

요즘 신문이나 다른 언론을 통해 과장된 면이 많습니다. 예를 들어 이제는 파산 안 된다 라든지 아니면 이제 credit card는 파산이 안 된다는 생각은 전혀 근거가 없는 얘기 일뿐입니다. 다만 앞에서 설명 드린 대로 파산이 어려워 졌다는 점은 기정된 사실입니다. 서류 심사도 더 까다로워졌고 증거 서류도 전에 요구하지 않던 여러 서류를 제출 하게 됩니다.

한국 분들 중 자영업을 하시는 분들은 전혀 영향이 없을 것 같습니다. 예를 들어서 grocery store를 하시는 분이 파산을 신청 하시면서 가게를 닫게 되면 income이 없을 경우 앞서 말씀 드린 대로 Means Test에서 Median Income 정도의 소득이 없다면 개정된 법으로 파산 자격은 문제 되지 않습니다.

또 직장을 잃어 버렸든지 또 사업에 실패 하신 분들은 별로 염려 하실 필요가 없게 됩니다. 다만 부부일 경우 두 분 다 소득이 많다면 가 아니면 한분이라도 소득이 많다면 Chapter 7 자격이 안 되고 Chapter 13 만 해당이 될 것입니다. 이런 분들은 소득의 일부를 5년 동안 매달 법원에 내야 하는 번거로움을 피해 가는 힘들 것 같습니다. 그리고 심사가 많이 까다로워진 결과는 변호사비도 전보다는 많이 들고 또 많은 서류도 요구 됩니다.

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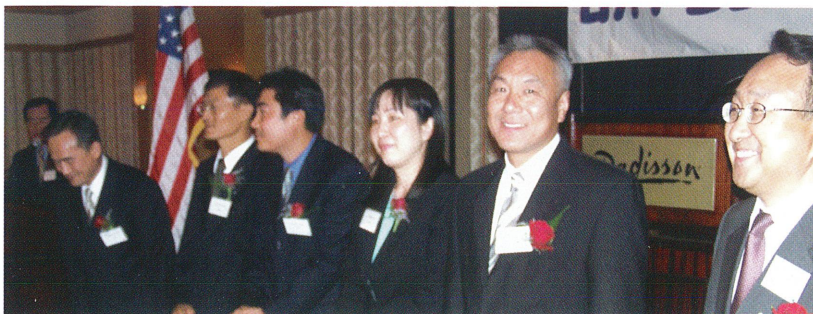
협회소식, 활동, 및 회원동정

1. 23대 회장단 취임식 및 장학금 전달식



2005년 6월 23일 저녁 7시, Radisson Wilshire Plaza Hotel에서 약 250여명의 귀빈을 모시고, 23대 회장 및 임원들의 취임식을 거행하였습니다. 김선홍 중앙은행 행장님께서 주 강사로 귀빈과 회원들에게 은행과 community 발전에 관한 좋은 말씀을 주셨습니다. 또한, 협회의 장학생 선발위원회에서 신청자중 4명의 장학생을 선발하여, 각 \$1,000의 장학금을 수여하는 전달식도 함께 거행하였습니다.

2005-2006 KACPA 협회 임원단



회장: 임창수, 부회장: 장두천, 총무: 김승열, 재무: James Kim, Seminar Coordinator: Terrie Lee, Member Coordinator: Steve Cha, Web Coordinator: 노준종, Publish Coordinator: James Lee

2. 한인 은행장 방문

2005년 6월, 협회 현 회장 임창수와 부회장, 총무가 한인타운 각 은행의 은행장 및 임원들을 방문하여 협회와 은행들 간의 상호 협력을 통한 발전을 위한 구체적인 방법들을 모색하였으며, 매달 협회 Seminar의 Sponsor해 주신것에 감사도 드렸습니다.

협회소식, 활동, 및 회원동정



3. 협회주최 제7회 Tennis Tournament

2005년 10월 8일 Studio City Tennis Court에서 협회와 참가 선수들의 후원으로 20여명의 선수, 가족, 임원들의 친목과 선의의 경쟁 시간을 즐겁게 가졌습니다.

4. Advanced (Estate & Business Succession) Planning Seminar

2005년 7월 15, 16 양일 동안 Pacific Palms Resort (구 Industry Hilton)에서 Seminar Golf Tournament가 개최되었습니다. 이 Seminar에서는 각 분야의 전문가와 case study형식으로 재정 및 상속 등에 관한 Advanced Planning을 논의했습니다. AXA Advisors에서 전액 재정 지원 하였으며 골프 등 여러 참석자들과 친목을 도모했습니다.



5. CPA & Bankers 친선 Golf 대회

2005년 5월 14일 Westridge Golf Course에서 70여명의 CPA와 은행 관계자들이 참석한 가운데 성황리에 진행되어 CPA와 은행 관계자들과의 유대 관계를 강화시키는 데에 큰 도움이 되었습니다.

협회소식, 활동, 및 회원동정

6. Golf Tournament

2005년 10월 16일 Brookside Golf Course에서 Hartford Insurance의 David Lee씨의 후원으로 Golf를 즐긴 후 419(b) plan에 관한 세미나를 함께 실시 하였습니다.

7. 협회 연말 Banquet

2005년 12월 1일, 용수산에서 100여명의 협회원들과 가족, Guest들을 모시고, 손정우 CPA의 사회로 Magic Show 등 각종 다양한 순서로 회원간의 즐거운 시간을 나눴습니다.



8. 전미 한인 공인회계사 협회 학술대회

2005년 9월 25일부터 28일까지 4일간 New York에서 제 5회 재미한인공인회계사 학술대회를 개최하였습니다. L.A., New York, Chicago등에서 많은 CPA들이 참석하여 주제강연 및 Golf Tournament로 협회 회원간의 Network를 향상시켰습니다.

9. Financial Services 세미나 및 Bowling 대회

2005년 8월 26일 JJ Grand Hotel에서 Prudential Financial의 후원으로 Financial Services 세미나를 가지고 저녁에는 Bowling 게임으로 친선을 도모하였습니다.

KACPA Seminar Schedule 2005 -2006

DATE	TOPIC	SPEAKER NAME	SEMINAR PLACE	HRS
7/13/2004	Asset Protection & Business Succession Planning	John Lim, Esq./John Hur/Youngsun Park	JJ Grand Hotel	1
7/23-24/04	Advanced Estate Planning Seminar	Various	Pacific Palms Resort Hotel	13
8/10/2004	Current Labor Law Issues	Kenneth H. Yoon, Esq.	JJ Grand Hotel	1
9/14/2004	State Tax Appeals	Marty Dakessian, Esq.	JJ Grand Hotel	1
10/12/2004	Federal & State Tax Collection Procedures	Joseph A. Broyles, Esq.	JJ Grand Hotel	1
11/9/2004	IRS Audit Procedures	Thomas R. Lamons, Esq., L.L.M.	JJ Grand Hotel	1
12/2/2004	Retirement Plan 412(I) Plan	David Lee, Hartford	JJ Grand Hotel	1
12/14/2004	Bank Credit Analysis Procedures	Michael Park, Credit Administrator/ Sr. VP	Radisson Wilshire Plaza Hotel	1
05/10/05	BOE Sales Tax Audit Trend	Hae Hong Joo	JJ Grand Hotel	1
06/14/05	Bankruptcy Fraud	Lynda Chung, Esq.	JJ Grand Hotel	
07/12/05	Community Property	Roseanna L Purzycki, CPA	JJ Grand Hotel	1
07/15/05	Advanced Financial Planning Seminars	Various	Pacific Palms Resort	11
08/09/05	Terms and Conditions of Treaty Investor Visa (E-2) and Korean Nationals	Inja Kim, ESQ	JJ Grand Hotel	1
08/26/05	Annuity Basics & Business Continuation	Mark Zimmerman & Jim Dinges	JJ Grand Hotel	4
09/13/05	Labor Commissioner's Office Procedure - Overtime Pay	Charles C Joo, ESQ	JJ Grand Hotel	1
10/11/05	Auditing MSB for Anti Money Laundering Act	Walt Mix & David Abshier of Secura Group	JJ Grand Hotel	1
10/25/05	Retirement Plan 419(b) Plan	David Lee, Hartford	Brookside Country Club	1
11/08/05	Advanced 1031 Exchange	J Paul Spring, ESQ & Phil Atwan	JJ Grand Hotel	1
12/13/05	Philanthropic Case Studies: Examining Private Foundations	Young Sun Sunny Park, ESQ	JJ Grand Hotel	1

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15	7/97 - 6/98	BOB G. MOON
16	7/98 - 6/99	SUNG H. HONG
17	7/99 - 6/00	BYUNG S. KIM
18	7/00 - 6/01	YOON H. KIM
19	7/01 - 6/02	JAE S. SONG
20	7/02 - 6/03	KYUNG M. KIM
21	7/03 - 6/04	SHIN-YONG KANG
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