

## SPEAKER'S CORNER

### UPCOMING EVENTS

#### APRIL

**April 3, 2002**

**Legal Context of Social Entrepreneurship**

Location: Robert H. Smith School of Business, University of Maryland

Speaker: **Lloyd Mayer**

Mr. Mayer will be a guest speaker at a session of the Social Entrepreneurship program.

**April 9, 2002**

**Council on Foundations Meeting**

Location: Washington, DC

Speaker: **Marcus Owens**

Mr. Owens will give two presentations on "IRS Audit Survival Tips."

**April 24, 2002**

**American Petroleum Institute's Federal Tax Forum**

Location: Houston, TX

Speaker: **Christopher Rizek**

Mr. Rizek will speak on "The ABCs of Attorney-Client Privilege."

**April 24-25, 2002**

**19<sup>th</sup> Annual Representing and Managing Tax-Exempt Organizations Conference**

Location: Georgetown University Law Center, Washington, DC

Speakers: **Catherine Livingston** and **Marcus Owens**

On April 25<sup>th</sup>, Ms. Livingston will speak on "Disaster Relief Activities." Mr. Owens will be a panelist on the "IRS Audit Workshop Part II: Surviving an IRS Audit."

**For more information, see:**

[http://www.law.georgetown.edu/cle/01\\_02/teo.html](http://www.law.georgetown.edu/cle/01_02/teo.html)

**April 26, 2002**

**Federalism at Risk Seminar**

Location: Denver, CO

Speaker: **Beth Kaufman**

The Multistate Tax Commission is presenting the seminar. Ms. Kaufman will speak via teleconference on the "Impact of TEGGRA on State Budgets." She will discuss the effects of repeal of the estate tax on the states.

**For more information, see:**

<http://www.mtc.gov/Federalism/Fedatrisk.htm>

#### MAY

**May 8-10, 2002**

**Salk Institute Conference on Private Foundations**

Location: La Costa Resort and Spa, Carlsbad, CA

Speaker: **Thomas Troyer**

**May 13-14, 2002**

**University of Southern California Conference on Foundations and Policy Making**

Location: Los Angeles, CA

Speaker: **Thomas Troyer**

#### JUNE

**June 3-4, 2002**

**Mealey's Asbestos Bankruptcy Conference**

Location: The Four Seasons Hotel, Chicago, IL

Speakers: **Elihu Inselbuch** and **Peter Lockwood**

**June 23-25, 2002**

**The Election Law Summit: Meeting the Challenges of the Coming Elections**

Location: Renaissance Hotel, Washington, DC

Speaker: **Trevor Potter**

*For more information, please contact the Marketing Department at (202) 862-5000 or e-mail [bcg@capdale.com](mailto:bcg@capdale.com).*

## RECENT PUBLICATIONS

### “Summary of Analysis of Bipartisan Campaign Finance Reform Act Passed by House and Senate and sent to President Bush”

*Caplin & Drysdale Memorandum*

March 20, 2002

By: **Trevor Potter** and **Kirk Jowers**

For more information, see:

<http://www.caplindrysdale.com/db30/cgi-bin/pubs/summarycampaignfinance.pdf>

### “Tax Accounting”

*Corporate Business Taxation Monthly*

April 2002

By: **James Salles**

The column addresses Revenue Ruling 2002-9, which requires capitalization of “impact fees” paid for permission to develop property but permits them to be depreciated as part of the cost of the new construction, and discusses the treatment of “permitting costs” generally.

For more information, see:

<http://www.caplindrysdale.com/db30/cgi-bin/pubs/salles04-02.pdf>

### “Tax Accounting”

*Corporate Business Taxation Monthly*

February 2002

March 2002

By: **James Salles**

Mr. Salles’ February and March columns discuss Notice 2001-76 and the accompanying proposed revenue procedure, which allow a lot more taxpayers that sell merchandise to use the cash method of accounting.

For more information, see:

[www.caplindrysdale.com/db30/cgi-bin/pubs/Salles2-02.pdf](http://www.caplindrysdale.com/db30/cgi-bin/pubs/Salles2-02.pdf) and  
[www.caplindrysdale.com/db30/cgi-bin/pubs/Salles03-02.pdf](http://www.caplindrysdale.com/db30/cgi-bin/pubs/Salles03-02.pdf)

### “IRS Form 990 Donor Disclosure”

*The Exempt Organization Tax Review*

March 2002

By: **Marcus Owens** and Gregory Colvin

The article explains the problems caused by the IRS’s release of completed Schedules B for the Form 990 despite a statement on the schedule saying it would not be released. The article also provides a few recommendations for resolving this issue. This article was presented and discussed at the American Bar Association, Tax Section, Exempt Organizations Committee meeting on January 18, 2002.

*(This article also appeared in the February 14, 2002 edition of Tax Notes Today.)*

## NOTES AND NOTABLES

April 2002

### New Associate

**Marva J. Rowan** joined the firm as an associate in the firm’s Washington, D.C. office. She was a summer associate at the firm in 2000. Ms. Rowan’s concentration will be in estate planning.

April 2002

### “Need a Good Lawyer?”

*Washingtonian Magazine*

**Cono Namorato** is listed as one of the best lawyers in the Washington, DC area.

March 2002

### New Appointment

**Thomas Troyer** has accepted to serve as an Adviser on a project being implemented by the American Law Institute. The project will attempt to create Principles of the Law of Nonprofit Organizations. Mr. Troyer along with other fellow advisers will convene for a meeting in Philadelphia, PA on June 13-14, 2002 to begin the first stages of this project.

## HEAD OF THE CLASS

**April 10, 2002**

Location: Yale Law School

Faculty: **Catherine Livingston**

Ms. Livingston will teach the Nonprofit Organizations class.

## IN THE NEWS

**March 28, 2002**

**“Reform Battle Hits Courts”**

**Roll Call**

**Trevor Potter** is mentioned in the article about how the McCain-Feingold supporters are depending on him and others to defend the bill in court.

**March 28, 2002**

**“Campaign Finance Enforcement”**

**NPR Radio – All Things Considered**

**Trevor Potter** was interviewed regarding the implementation of the new Bipartisan Campaign Finance Reform Act. Mr. Potter's comments focused on the role the FEC rule-makings will play.

**To listen to the program, go to:**

<http://search.npr.org/cf/cmn/cmnpd01fm.cfm?PrgDate=3%2F28%2F2002&PrgID=2>

**March 28, 2002**

**“IRS Does Good Turn for Donors, Donees by Relaxing Substantiation Rules”**

**Tax Analysts' Highlights and Documents**

**Tax Notes Today**

In the article, **Catherine Livingston** praises the IRS notice (Notice 2002-25) that relaxes the substantiation rules a bit for donors who gave to charities in the wake of the September 11<sup>th</sup> terrorist attacks.

**March 27, 2002**

**“The Doug Wright Show”**

**KSL Newsradio 1160 – Salt Lake City, UT**

**Kirk Jowers** spoke on President Bush's signing of the Bipartisan Campaign Reform Act of 2002 and the lawsuits challenging the law.

**March 27, 2002**

**“Weinberger to Step Down From Top Treasury Tax Post”**  
**Tax Notes Today**

**Christopher Rizek** is quoted in the article about Mark Weinberger's accomplishments while serving as Treasury Assistant Secretary for Tax Policy.

*(The article also appeared in the March 28, 2002 issue of Worldwide Tax Daily.)*

**March 26, 2002**

**“Consequences of Campaign Finance Reform”**

**WBEZ 91.5 FM Chicago - Odyssey**

**Kirk Jowers** participated in a panel discussion on this radio program about the long-term consequences of the campaign finance reform legislation and what its impact will be on the culture of Congress.

**To listen to the program, see:**

[http://www.wbez.org/services/od\\_ramar02.htm](http://www.wbez.org/services/od_ramar02.htm)

**March 25, 2002**

**“Reform's Defenders Getting Defensive”**

**Legal Times**

**Trevor Potter** is mentioned in the article as one of the members of the legal team who will be defending the new campaign finance law.

## IN THE NEWS

**March 25, 2002**

**“Campaign Finance Bill’s Supporters Announce Their Legal Defense Efforts”**

***BNA Money & Politics Report***

**Trevor Potter** is quoted in this article about how he will direct the Campaign and Media Legal Center’s defense of the newly passed campaign finance legislation against constitutional challenges.

**March 25, 2002**

**“EO Conference Covers Intermediate Sanctions, September 11 Charities”**

***Tax Notes***

This article describes **Marcus Owens** and **Catherine Livingston**’s presentations at the Washington Non-Profit and Legal Tax Conference. At the conference, Mr. Owens discussed how exempt organizations practitioners need to pay particular attention to the IRS Exempt Organization Division’s auditing function in the year ahead. He also advised practitioners to be aware on pending litigation involving joint ventures between EOs and for-profits and distinctions between donor-advised and donor-directed funds in order to know how to structure joint venture transactions and permissible donor-advised funds. Also at the conference, Catherine Livingston advised exempt organization representatives to apply traditional tax rules to exempt organizations’ Internet activities by looking to rules and safe harbors that normally apply to EOs’ non-Internet activities to resolve Internet-related issues.

**March 22, 2002**

**“A Hero of Democracy Finds a Home”**

***The Washington Post***

Milton Cerny is quoted in the article about the bronze statue of Tomas G. Masaryk, Czechoslovakia’s first president. The statue which was a gift to the United States from the Czech Republic will be unveiled at a joint presidential ceremony featuring President Bush and Czech Republic President Vaclav Havel in September.

**March 21, 2002**

**“Senate Clears Bill Overhauling Campaigns By 60-40; Bush Says He Will Sign Measure”**

***BNA Money & Politics Report***

**Trevor Potter** raised the question about whether FEC members will continue to oppose the policy provisions of the new campaign finance legislation in the regulatory process. He also mentioned that the FEC may need to be restructured eventually in order to effectively implement and enforce the new legislation over the long term.

**March 19, 2002**

**“IRS Allows Charities to Acknowledge Charitable Contributions by E-mail”**

***Daily Tax Report***

**Catherine Livingston** discussed the recent revision of Publication 1771, which states that the Internal Revenue Service has approved the use of e-mail by charities to provide written acknowledgement of charitable contributions. The publication also provides guidance to donors and interested taxpayers on permissible taxpayer actions. Ms. Livingston also mentioned that final corporate sponsorship regulations will discuss the effect of a link provided by a university to a corporate sponsor. The IRS will finalize these regulations sometime this year.

**March 18, 2002**

**“Same EO Rules Apply on Internet Highway, Says Former Treasury Official”**

***Tax Notes Today***

In the article, **Catherine Livingston** advised exempt organization representatives to apply traditional tax rules to exempt organizations’ Internet activities by looking to rules and safe harbors that normally apply to EOs’ non-Internet activities to resolve Internet-related issues. Ms. Livingston also discussed the revised version of Publication 1771, the substantiation issues that can be resolved with charitable fundraising on the Internet, and how other Internet activities that invoke unrelated business income, corporate sponsorship, and political activity analyses are similarly resolved by reliance on the current rules.

## IN THE NEWS

**March 18, 2002**

**“IFA Discusses New U.S.-U.K. Treaty , Simplification, and FSC Dispute”**

**Tax Notes**

**“Business Profits Article of U.K.-U.S. Treaty to Apply Arm’s-Length Standard”**

**Tax Notes International Magazine**

*(The article also appeared in the March 8, 2002 editions of Tax Notes Today and Worldwide Tax Daily.)*

**David Rosenbloom** is quoted in these publications about the OECD transfer pricing guidelines under Article 7(2) of the proposed United Kingdom-United States income tax treaty.

**March 16, 2002**

**“Sunoco Loses Battle Over Foreign Income”**

**Tulsa World**

In a recent ruling issued by the U.S. Tax Court in which regulations prohibit the company Sunoco from deducting interest expenses from interest income earned by its subsidiaries overseas, **Christopher Rizek** stated that “any taxpayer with international operations is going to want to look at this issue.”

**March 15, 2002**

**“New Phase of EO Division Suggests Less Customer-Oriented Interaction, Says Owens”**

**Tax Notes Today**

Since the IRS Exempt Organizations Division's reorganization, **Marcus Owens** discussed how exempt organizations practitioners will need to pay particular attention to the Division's auditing function in the year ahead. He also advised practitioners to be aware on pending litigation involving joint ventures between EOs and for-profits and distinctions between donor-advised and donor-directed funds in order to know how to structure joint venture transactions and permissible donor-advised funds.

*(A similar article appeared in the March 25, 2002 edition of Tax Notes.)*

**March 14, 2002**

**“APAs: Staples, Practitioners Debate IRS Decision to Handle Headquarter Cost Issues in PFAs”**

**Daily Tax Report**

**Patricia Lewis** is quoted in the article about the Advance Pricing Agreement (APA) program's decision to back away from Regs. Section 1.861-8 matters because the IRS declined to consider two cases involving headquarters expenses.

**March 13, 2002**

**“How Well Do You Know Your Tax Preparer?”**

**Forbes.com**

**Christopher Rizek** mentions how the odds of being audited by the Internal Revenue Service are much greater for individuals who have to do a fair number of complicated tax returns.

**March 11, 2002**

**“Major Parties Pushing for Waivers of 527 Law as New Deadlines Loom”**

**Daily Tax Report**

**Trevor Potter** is quoted about the possible future discussion of changes in the filing deadlines under the Section 527 law so long as it provides relief to candidates and parties that are already adequately disclosing their finances.

**March 11, 2002**

**“Treasury Focuses on Facts to Apply Limit on Benefits Under U.S.-U.K. Treaty”**

**Daily Tax Report**

**David Rosenbloom** expresses his concern about the limitation of benefits provisions in Article 23 of the proposed treaty between the United States and the United Kingdom.

**March 8, 2002**

**“Expect Global Dealing Rules By June 30, Musher Says”**

**Daily Tax Report**

**Jessica Katz** is mentioned in the article about how the IRS still anticipates finalization of the global dealing regulations under tax code Sections 861-865 by June 30, 2002.

**March 7, 2002**

**“Time to Simplify Tax Code? Fat Chance in Election Year”**

**Investor’s Business Daily**

**Christopher Rizek** is quoted about how the government will not enact simplification measures to the tax code due to the way the budget rules operate.



## IN THE NEWS

March 7, 2002

### **“527 Filings Fall Short”**

#### **Roll Call**

**Trevor Potter** is quoted about the problems with the 527 legislation, including how the required forms are too lengthy and time consuming for candidates to fill out and how the IRS needs to make gubernatorial candidates more aware that they need to file these forms. Some gubernatorial candidates have to give up some of their campaign finance funds to the IRS in penalties, because they are unaware of this law.

For more information, see:

[www.caplindrysdale.com/db30/cgi-bin/pubs/527-tp.pdf](http://www.caplindrysdale.com/db30/cgi-bin/pubs/527-tp.pdf)

March 4, 2002

### **“Releasing EO Closing Agreements Can Be Beneficial, Owens Says”**

#### **Tax Notes**

The article discusses **Marcus Owens'** recent remarks at a program sponsored by the DC Bar Section of Taxation's Tax Audits and Litigation Committee that focused on closing agreements between the IRS and taxable and tax-exempt organizations. Mr. Owens mentioned some benefits to the IRS in releasing closing agreements or information about closing agreements and the tools for settling exempt organization issues, such as determination letters and private letter rulings.

*(A similar article also appeared in the February 22<sup>nd</sup> issue of Tax Notes Today.)*

March 2002

### **“Proposed IRS Capitalization Rules Raise Questions”**

#### **The Insurance Tax Review**

**James Salles** is quoted in this article about the IRS's new capitalization rules, which give advance notice of proposed regulations on capitalization issues.

*(This article also appeared in the February 20, 2002 edition of Tax Notes Today and the February 18, 2002 edition of Tax Notes.)*

March 2002

### **“Tax Practitioners Praise IRS Reversal on Rite Aid”**

#### **The Insurance Tax Review**

In the article, **Christopher Rizek** shares his opinion on the IRS's decision not to appeal to the Supreme Court the Federal Circuit's decision in *Rite Aid Corp., et al v. United States* that the loss disallowance rule of regulation section 1.1502-20 is invalid.

*(This article also appeared in the February 4, 2002 edition of Tax Notes and the February 1, 2002 edition of Tax Notes Today.)*

March 2002

### **“Could Enron Collapse Lead to Big 5 Losing Tax Work?”**

#### **The Insurance Tax Review**

**Christopher Rizek** is quoted in the article about the need for auditor independence.

*(This article also appeared in the March 1, 2002 issue of Tax Practice & Controversies, the February 25, 2002 issue of State Tax Notes Magazine, and the February 19, 2002 issues of Highlights & Documents, State Tax Notes Today and Tax Notes Today, and the February 18, 2002 issue of Tax Notes.)*

March 2002

### **“IRS Addresses Public Disclosure Confusion in New Form 990”**

#### **The Exempt Organization Tax Review**

**Marcus Owens** is mentioned in the article about his reaction to how the IRS is trying to address the conflicting disclosure and privacy concerns that they face with donor information and the Form 990.

*(This article also appeared in the February 18, 2002 issue of Tax Notes and the February 13, 2002 issue of Tax Notes Today.)*

March 2002

### **“Budget Blueprint Includes Familiar Charitable Giving Incentives”**

#### **The Exempt Organization Tax Review**

In the article, **Robert Boisture** praises the raise in the cap on corporate charitable contributions from 10 percent to 15 percent of net income in the proposed federal budget for fiscal 2003. However, Mr. Boisture cautioned that “it may be insufficient for encouraging corporate giving noting that the average corporate contributions are well under five percent.”

*(This article also appeared in the February 11, 2002 issue of Tax Notes and the February 5, 2002 issue of Tax Notes Today.)*

March 2002

### **“Charity Receives Conditional “Bond” Voyage on Unrelated Ferry Service”**

#### **The Exempt Organization Tax Review**

**Marcus Owens** comments on the Internal Revenue Service's analysis of private letter ruling 200204051.