



Certified Public Accountants

Advisor

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and New Jersey

1st Quarter

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Issue 1

Wiss Forms Public Company Advisory Services Group

Wiss & Company, LLP has announced the formation of the Public Company Advisory Services Group, headed by Ed O’Connell, Wiss’ newest Partner. This new service group will offer a cost effective alternative to national accounting firms for public companies in search of other options in the wake of Sarbanes-Oxley (SOX).

“Ed’s significant knowledge of accounting issues, his recent experience with the Public Company Accounting Oversight Board, and his innate leadership, position him well to guide this sector,” says Jeff Campo, Managing Partner of Wiss. “We have been quite successful in marketing Employee Benefit Plan Audits, and the creation of the Public Company Advisory Services Group lets Wiss fully commit to serving this market sector. It brings together our in-house expertise with carefully selected business partners to offer the full gamut of accounting and consulting services.”

CFO Advisory Services - Wiss offers accounting, consulting and corporate governance services to assist CFOs with special projects such as valuations and strategic planning. Wiss can also assist the internal accounting staff of registrants and privately-held businesses with services ranging from routine bookkeeping to accounting rules interpretation and working paper

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Ed O’Connell Joins Wiss as Partner



In September, Wiss & Company welcomed its newest Partner, Edward G. O’Connell, a former inspection analyst for the Public

Company Accounting Oversight Board (PCAOB) who also possesses more than 15 years of experience in public accounting. Ed’s background in both financial and internal audits includes work within the telecommunications, voice-over-the-internet, software development, and Web-based industries. Ed has extensive experience auditing computerized data systems and controls to effectively examine critical entity data, as well as a deep knowledge of accounting issues related to revenue recognition, software development costs, internal use software and website development costs. Ed will lead Wiss’ newly formed Public Company Advisory Service Group (see related article this page).

“The addition of O’Connell serves to strengthen our technical expertise in accounting and auditing while also providing a platform for establishing our niche with public companies,” said Managing Partner Jeff Campo.

Ed is a certified public accountant in New Jersey and New York and a certified fraud examiner. He received his Bachelor of Science degree in Business Administration in Accounting from Rider University. He is a member of the American

Institute of Certified Public Accountants, the New York Society of Certified Public Accountants and the New Jersey Society of Certified Public Accountants, where he has served on the society’s Auditing and Accounting Committee since 2002.

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WISS COMPANY NEWS AND EVENTS

Partner Steve Mizrach will participate in a panel discussion on Venture Capital Funding at the New Jersey Technology Counsel (NJTC) Capital Conference. The conference is scheduled for Friday, February 2, 2007 at the Westin Princeton, NJ. For registration and details, see www.njtc.org.

The Wiss Women's Think Tank hosted "Negotiation Skills for Women – Enhancing Your Style," presented by Marion B. Solomon, founding partner of Arons & Solomon. Ms. Solomon offered tips to enhance negotiation skills with a particular focus on strategies for women. The Wiss Women's Think Tank promotes interaction and the exchange of ideas among professional women across all industries. Meetings are planned quarterly.

UEZ Registrants Take Note

UEZ registrants can no longer claim exemption from sales tax and must instead pay the tax and subsequently file a refund claim.

Effective July 15, 2006, the exemption enjoyed by some Urban Enterprise Zone (UEZ) registrants has been terminated. The UEZ-5 certificate for registrants with annual gross receipts of \$1 million or more is revoked and the business may no longer purchase goods and services on a sales tax free basis. Instead, the business unit is required to pay the tax and may file a refund claim as often as once per quarter.

In an effort to reduce paperwork, the NJ State Division of Taxation has requested that the refund claim be filed along with a spreadsheet that lists each invoice separately. (Reference forms A-3730-UEZ and A-3730-UEZ-1.) Documentation and proof of payment is not required to be filed with the refund claim, but may be later requested in order to complete the claim. Alternatively, the taxpayer may send all documentation along with the refund claim.

The Division has also requested that the spreadsheet be submitted on disk. If a disk is sent, we recommend that the file be locked to avoid any question regarding what was submitted.

The refund claim form includes a box for submitting an email address. If so provided, the Division will send an email response to acknowledge receipt of the refund request. They will also use email to expedite requests for backup documentation as well as other correspondence in order to complete claim processing.

With any questions regarding the procedures described herein, please contact Chaim Kofinas at 973.994.9400.

Helping those less fortunate this holiday season



Wiss employees once again participated in the Community FoodBank of New Jersey's food collection and the Salvation Army's Angel Tree Program, giving gifts to children in need.



Community FoodBank volunteers — L to R Front Row: KerryAnn Thompson, Joanne Spencer, Carla Cordeiro, Janet Mendelsohn, Susannah Prill, Kimberly Lass, Robert Wright. Back row: Richard Corcoran, Frank Calabrese, Anthony Calascibetta, Shelley Kennon, Mike Hogan

IRS Extends Transition Relief under Code 409A for Nonqualified Deferred Compensation Plans

The IRS and the Department of the Treasury recently announced in Notice 2006-79 that it has extended the transition period for compliance with Code 409A to January 1, 2008. Code 409A was enacted as part of the American Jobs Creation Act of 2004 and imposed strict new wage withholding requirements with respect to deferrals of compensation and amounts includible in gross income as they apply to nonqualified retirement programs.

The deadline extension was widely anticipated because final regulations have not yet been issued. The additional year extension has been made to allow sufficient time for taxpayers and their representatives to digest the new rules and apply them to all of the various plans, programs, agreements and other arrangements that are subject to them in order to come into compliance.

The notice also provides additional transition relief for certain payment elections in "linked plans" and certain collective bargaining arrangements and extends the deadline for amending arrangements covered by the code. In addition to the general extension, the notice includes the following guidance:

How the new deadline applies to the timing of changes in payment elections reflects the requirements for 2006. Namely, elections and amendments to a plan can only apply to amounts that would

not otherwise be payable in 2007. Discounted stock options may be amended to provide for fixed payment terms provided that any elections are made on or before December 31, 2007.

The ability to link a payment election under a nonqualified deferred compensation plan to a qualified plan has been extended through 2007. This means that con-

The additional year extension has been made to allow sufficient time for taxpayers and their representatives to digest the new rules and apply them to all of the various plans, programs, agreements and other arrangements that are subject to them in order to come into compliance.

tribution to nonqualified deferred compensation plans made by an employee under a qualified employer plan will not violate regulation requirements.

Cancellation and re-issuance of discounted stock options will not constitute a deferral of compensation under Code 409A if the re-issuance occurs before the end of 2007. This is a change from when the regulations were initially extended in 2006 and the cancellation of deferrals in exchange for cash or vested property was handled differently.

Nonqualified deferred compensation arrangements maintained under collective bargaining agreements in effect since October 3, 2004 are not required to comply with the Code 409A until the agreement terminates or by December 31, 2009.

Originally the deadline for initial deferral elections was March 15, 2005 and was not extended when the plan amendment deadline was extended to December 31, 2006. Because of ensuing confusion, the regulators have now extended both to the end of 2007.

The exercise price of a backdated stock option of a publicly traded company granted to an officer or director which was not reported on the company's financial statements must be adjusted to fair market value on the original date by December 31, 2006 or be subject to 409A requirements next year.

As with prior transition relief, taxpayers must operate in reasonable good faith compliance with the provisions of Code 409A during the transition period.

The Lanco Decision — What it Means for New Jersey

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On October 12, 2006, the New Jersey Supreme Court rendered its opinion in the Lanco Case (Lanco Inc. vs. Director of Taxation) in favor of the Director of Taxation. The ruling basically declares that a company which transacts business with customers in New Jersey is required to file state income tax returns regardless of their physical presence (i.e., offices or employees) in the state.

For businesses based in New Jersey, there is no impact. Out-of-state businesses, however, have much to consider. The State has indicated that it will aggressively pursue businesses such as credit card companies, brokers and insurance companies that have no physical presence but transact business with New Jersey customers.

Background

Lanco Inc. is the trademark company that holds the trade name Lane Bryant. Lanco licenses the name to Lane Bryant stores and collects a royalty as a result. The debated issue was Nexus (i.e., out-of-state taxation) and physical presence. The issue that the NJ Tax Court had to decide was whether Lanco acquired Nexus by virtue of licensing the trade name to the Lane Bryant stores located in New Jersey.

In October 2003, the Tax Court ruled in favor of Lanco, agreeing that Lanco did not have physical presence and, therefore, was not required to file corporation income tax returns. The State subsequently appealed and the Appellate Court ruled in favor of the State. This holding was upheld by the NJ Supreme Court in October 2006.

It's Time to Spend Your Flex Accounts

Flexible spending accounts, also known as cafeteria plans or flexible benefit plans, are popular with tax-savvy employees because they allow them to pay for medical and dependent care expenses—doctor's bills, new glasses, day care—with pre-tax wages. Until an IRS ruling in 2005, employees who put money into flex spending accounts had to "use it or lose it" before the end of the year or it went to waste.

Now companies can offer employees 14 1/2 months—an extra 2 1/2 months after year end—to spend the money in their accounts. This means workers will now be able to accrue flex account dollars through Year 1 and use them during the first several weeks of Year 2, giving them some freedom from having to have procedures like eye exams or physicals done before the new year. In addition to giving workers more flexibility, it eases the year-end rush on medical offices in December as workers seek to incur qualified expenses before eligibility expires.

The IRS ruling does not, however, require companies to provide the 2 1/2 month grace period, but it does give them an option. The new rule will obviously hold strong appeal for employees, which should be enough for most companies to choose to allow it.

Legislation in the wings

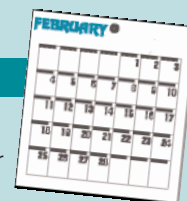
Introduced in the House of Representatives is legislation (HR-1956) that would impose a federal bright line physical presence test before a state is allowed to tax a business entity. Stay tuned.

Chaim Kofinas, CPA/PFS, MST, Tax Partner, Wiss & Company. He can be reached at ckofinas@wiss.com.

Important Upcoming Tax Dates

February 2007

If you were exempt from income tax withholding for 2005, you must file a new W-4 form by February 15 to continue your exemption for 2006.



March 2007

Calendar year corporation tax returns due March 15.

"S" corporation elections for calendar year corporations due March 15.

April 2007

TAX DAY: Most individual, partnership, trust, and estate tax returns due by April 16.

Form 4868 for an automatic extension to file your return until October 15 due by April 16.

1st Quarter estimated tax payment for individuals (Form 1040-ES) due by April 16.

NOTE: Patriots Day falls on April 16 this year, pushing the tax filing payment deadline back one day to April 17 for taxpayers in Maine, Maryland, Massachusetts, New Hampshire, New York, Vermont, and D.C. This also applies to filing Forms 4868 and 1040-ES for these states.

1st quarter 941 payroll tax return for year 2007 due by April 30.



SAVE THE DATE

June 18, 2007



Kathleen Regan of Wachovia Bank accepts recognition as the 2006 Tournament Sponsor from Jeff Campo

The 5th Annual WISS Edward W. O'Connell Memorial Golf Classic returns to Essex Fells Country Club.

Sponsorships now available.

For information, contact Joanne Tessem at 732.283.9300 or jtessem@wiss.com.

5th Annual WISS Edward W. O'Connell Memorial Golf Classic



WISS ADDITIONS

A warm welcome to:

- **Edward G. O'Connell**, Partner
- **Donna Merer**, Marketing Director
- **Carolyn Hall**, Supervisor
- **Margo Melzer**, Tax Supervisor
- **Michele Bennett**, Tax Senior
- **Dean Montelbano**, Tax Senior
- **Casey Eriksson**, Staff Accountant
- **Joshua Knopf**, Staff Accountant
- **Michael Kroll**, Staff Accountant
- **Nicole Moulton**, Staff Accountant
- **Paul Pizio**, Staff Accountant
- **Kristen Bennett**, Administrative Assistant
- **Ivy Brown**, Administrative Assistant
- **Roger Sjogren**, File Clerk
- **Richard Malinofsky**, Director, Accounting and Auditing
- **Steve Warholak**, Supervisor
- **Allen Beck**, Tax Manager
- **Robb Arent**, Litigation Support Specialist

WISS IN THE NEWS

Michael L. LaMotta, CPA, Partner-in-Charge, Tax Services was featured in the NJBIZ Finance & Growth Guide 2006, "Take Inventory of Your Business Assets to See Where You Can Save," where he discusses tax implications of different entity choices. He also states that there are "less drastic ways" of reducing a company's tax burden, notably a Section 179 expense (i.e., the write-off of the purchase price of business assets in the period in which

they're bought). LaMotta notes, however, that business owners "shouldn't wait too long to take advantage of the Section 179 write-off" as the federal limitations are scheduled to decrease in the near future. For the complete article, visit www.wiss.com.

Jeff Campo, CPA, Managing Partner, was featured in the October 2006 issue of NJ Business, Spotlight on Small Business Assistance, commenting on the various functions that CPAs serve for small businesses. Campo emphasizes the value that accounting firms can offer when tapped as strategic business advisors. Of WISS & Company, he states, "We are trying to think a bit more abstractly with the client about where to take their business."

Wiss Forms Public Company Advisory Services Group

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preparation to provide documentation that allows audit firms to render clean opinions.

Tax Compliance Services - Wiss provides services that are conflicted by SOX provisions (i.e., deferred taxes and tax accruals) in addition to corporate

and individual tax preparation and tax consulting work.

Internal Control Services - Services range from internal control design and evaluation to Section 404 documentation. Wiss has aligned itself with business partners whose core competency is performing internal control and Section 404 work to put together a package of customized services.

Employee Benefit Plan Services - Headed up by Wiss partner Paul Peterson, the Employee Benefit Plan team is dedicated to performing plan audits as well as providing plan design services, tax compliance and consulting and recordkeeping.

Russell Faye Named as One of Forty Under 40



Partner Russell L. Faye, CPA, has been named one of New Jersey's "Forty Under 40" by *NJBIZ*. The Forty Under 40 Award honors young professionals who have been making headlines in their field and who share a commitment to business growth, professional excellence, and the community.

"This award is clearly a reflection of Russ' vision, leadership, and entrepreneurial spirit," said Wiss & Company Managing Partner Jeff Campo. "It is these qualities that make Russ such a valuable Partner to Wiss. We are thrilled he was recognized in this prestigious group."

A graduate of College Misericordia in Dallas, PA, Russ holds a Bachelor of Science degree in accounting and a minor in management. He is currently pursuing his Masters in Taxation at Fairleigh Dickinson University. He is a member of the American Institute of Certified Public Accountants (AICPA), the New Jersey Society of Certified Public Accountants (NJSCPA), National Association of Industrial and Office Properties (NAIOP) and Global Business Roundtable.

The *Wiss Advisor* is intended for the use of our clients as well as others. The technical information it contains is necessarily brief. Please do not come to a conclusion or take specific action without discussion with a Wiss & Company partner or another qualified professional advisor.

IRS Circular 230 disclosure:

To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.



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