

## WISS Launches Consulting Division

As WISS continues to fulfill its strategic intent to expand core capabilities, the firm recently launched WISS Business Solutions, LLC (“WBS”). WBS provides clients with valued service offerings that meet their needs not only in these economic times, but into the future as well. The mission of WBS is to offer clients an outside perspective on the optimum means to manage a business, streamline operations, and identify business risks with the ultimate goal of enhancing profitability and corporate value. Services will include internal audit outsourcing, accounting and finance support, corporate governance evaluation, Sarbanes-Oxley compliance assistance, information technology assessments such as business continuity planning and disaster recovery, and holistic analysis of business operations and processes.

WBS will be led by Raymond Paolantonio, CPA who joins WBS after many years working with organizations in the business consulting arena as well as holding executive audit positions in global companies. According to Jeff Campo, Managing Partner of WISS “The formation of WBS greatly enhances our service capabilities, providing clients with high-level mind share to effectively assist them in renewing their businesses. Ray’s addition brings a tremendous focus, expertise and experience to the consultative side of business, enabling our clients to garner seasoned guidance from someone who can speak to them in a common sense business language.”



[www.wissbizsolutions.com](http://www.wissbizsolutions.com)

## WISS Takes a Bite Out of The Big Apple

This past year, WISS added the New York City accounting firm of Freeman & Davis, giving it a foothold into one of the most vibrant marketplaces in the country. According to Jeff Campo, “The combination brings two organizations together with a shared operating philosophy and a dedication to client service. The addition of a firm with the long standing reputation in the New York City marketplace such as Freeman & Davis will enable WISS to expand not only geographically, but across various common industry niches; serving to strengthen WISS now and in the future.”



The addition of FD brings the total number of personnel at WISS to 28 partners and approximately 200 professional and support staff. To accommodate existing needs as well as plans for future growth, the New York operations relocated to new office space within their current location at 14 Penn Plaza.

FD has operated as an accounting and consulting firm since its inception in 1919, providing audit, accounting, tax and consulting services to a diverse range of businesses while also developing a boutique service. Freeman & Davis has served the commercial business sectors in key industries such as manufacturing, wholesale/distribution, retail and a variety of other industries. In addition, unique attributes of the Freeman & Davis practice center on boutique consulting services for the New York State and City economic development and cost savings program.

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**Headquarters:**

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[www.wiss.com](http://www.wiss.com)

## Going Green Has Never Been More Accessible and Affordable

*We all talk about going green and the positive impact on our environment, but for many companies there's also a positive impact to the bottom line.*

WISS is pleased to announce the formation of the WISS Renewable Energy Group ("WREG"). Headed by partners with both a strong knowledge and interest in this growing industry, the WREG was created to help our clients understand and realize the benefits of going green.


By taking an integrated approach toward energy conservation and renewable energy installations, businesses can reap substantial benefits including rebates from Federal and State incentive programs.

These programs and incentives include:

- EPACT (Federal Energy Policy Act) which offers credits of up to \$1.80 per square foot (on lighting, hvac and building envelope upgrades)
- NJ Clean Energy Smart Start; Pay for Performance; Combined Heat and Power; Prescriptive Lighting; and the pending Direct Install program; each offers opportunities for significant savings (up to \$1 million per project) on energy infrastructure upgrades
- New Jersey Solar Renewable Energy Certificates
- Federal Accelerated Depreciation

By using cash flow analysis and financial modeling we have helped a number of our clients identify savings from reduced utility costs, tax benefits of system depreciation, federal tax credits and grants, state rebates and incentives—all weighed against the cost of a renewable energy system.

And through our relationships in the renewable energy market, we can help to identify the best vendors to help go green.

In this current incentive climate along with the various financing structures available, it may be the time to consider going green. 

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*For additional information contact one of the members of the [WISS Renewable Energy Group](#):*

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*Jerry Killian: [jkillian@wiss.com](mailto:jkillian@wiss.com)*



The WREG on a recent field trip to Vanguard Energy Partners, a leader in the design and installation of renewable energy systems. Pictured from left to right: Jerry Killian, Partner, Alex Rivera from Vanguard Energy Partners, Joe Pirrello, Partner, and Mike Lee, Partner.

### EXTRA! EXTRA!



### WISS In The News!

*September Issue of NJ Monthly Magazine  
Highlights WISS as a "Best Place To Work"*

More than one business, legitimately or not, has branded itself "the company with a heart," but Wiss — if it were inclined to self congratulation — could confidently bill itself as the company with a funny bone. The firm's dedication to lightening the atmosphere resulted in the creation, three years ago, of the Phun Committee. And during tax season, when employees log long and stressful hours, the company offers extra decompression in the form of free back massages, trivia contests, and firm-sponsored dinners and lunches.

According to Lisa Calick, Wiss' Human Resources Director, the upbeat corporate culture derives directly from the firm's partners. "Managing Partner Jeff Campo is very passionate about the firm and knows the name and back-story of every employee at all three offices," she says. Campo has instituted family-and employee-friendly policies such as monetary awards for workers who "think outside the box" and flextime. "It definitely improves retention," says Calick, who says she sees a lot of "boomerangs" — people who have left to work at other companies and come back to Wiss.

—Excerpted from *NJ Monthly Magazine*

# What to Do When the Bankruptcy Estate Comes Knocking: Preference Claims

By Anthony Calascibetta, CPA, CTP


A customer has filed for bankruptcy. You find yourself rushing to assess the financial impact to your business and then the letter arrives:



Unfortunately, this type of request is happening with increasing frequency in this economy. What the letter will fail to mention is that there may be some statutory defenses available to guard against this action that could lessen or even eliminate the need to make any repayments. Compounding the situation is that a debtor has two years to file preference claims.

There are several precautionary steps that can be taken when a customer is having financial difficulties, which in most cases will provide an effective defense to a claim. These steps include:

- Use of a letter of credit
- COD for ongoing purchases
- Maintaining similar payment terms and methods
- Avoid unusual collection demands
- Avoid post-dated checks if this is not usual practice

In these economic times it is extremely difficult to avoid any preference claims. However, with some planning and an effective review of the facts and circumstances, the financial impact can potentially be reduced. 

For additional information contact  
Anthony Calascibetta, Partner, [WISS Economic Recovery Team](http://WISS Economic Recovery Team) at [acalascibetta@wiss.com](mailto:acalascibetta@wiss.com)

Should an important customer file for bankruptcy or be in financial distress, your best course of action is to contact a bankruptcy professional who can evaluate the situation and properly advise you.

The financial and collection records relating to the customer relationship are critical to defending and mitigating the claim. Several criteria come into play when evaluating the preference claim, including:

- Shipments of goods or providing of services during the preference period
- Payment history for the 12 months preceding the preference period
- Form of payment
- Collection correspondence including email

## Boomer Alert!

by Michael La Motta, CPA

If you're thinking about taking your Social Security benefits at age 62, think again. Or at least check out the advantages of waiting until age 66, or even age 70. You may be able to maximize Social Security payments and increase your retirement savings.

Traditionally, about half of Americans take their benefits as soon as they're eligible, at age 62. Those people who are in good health and can afford to wait, find they can collect more money by deferring benefits.

For example: If your full retirement age is 66, but you start drawing your benefits four years early, at 62, you get only 75 percent of the full benefits that would be due to you at age 66. A person who postpones benefits for the four years from age 66 to age 70 gets an 8 percent per year hike in full benefits, or a total of 32 percent. That would raise a monthly benefit of, say, \$1,000 to \$1,320. And now that so many people live into their 80s and 90s, this can add-up to bigger income over time.




By  
delaying  
collecting benefits...  
you may be able to avoid  
unwanted income  
taxes.

Additionally, people who postpone collecting their benefits are likely working and still contributing to their 401(k) savings plans, which can increase their retirement income in even more.

For a married couple, it makes sense for the primary wage earner, typically the husband, to defer as long as possible. If the husband dies, his widow gets 100 percent of his benefit. The larger his benefit, the higher her payment will be for the rest of her life. (If her benefit is higher than his, based on her own work record, she would keep her own.)

However, if the husband started collecting benefits at 62 at the reduced rate, his widow's lifetime benefit also would be reduced.

By delaying collecting benefits, especially if you're still working, you may be able to avoid unwanted income taxes. Social Security payments are taxable, so the more you earn, the more your benefits can be taxed. 

For further information, contact: Michael La Motta, Partner-in-Charge, Tax Services at [mlamotta@wiss.com](mailto:mlamotta@wiss.com)

# Independent Contractor or Employee: State and Federal Changes Bring Scrutiny to Use of “1099ers”

by Joel J. Greenwald, Esq.



A perception that workers are widely misclassified as independent contractors by companies seeking to avoid payroll-related taxes and other employment obligations has led to new legislation and enforcement initiatives by the federal government and many states, including New Jersey and New York. While the reality is that such misclassification is often the result of genuine confusion over conflicting government rules and court decisions, all businesses need to be more careful than ever in using independent contractors.

## Independent Contractor Status

An independent contractor is a self-employed businessperson who contracts with a business to provide temporary specialized services. Independent is the key word — while each government agency has its own independent contractor criteria, all independent contractor tests evaluate the degree of control that the client company exercises over the “independent contractor.” In a true independent contractor relationship, the client company has a right to judge only the results produced by the independent contractor — not to direct or control any aspect of the mechanics that produce the result. Likewise, a true independent contractor has complete financial control of his/her operation, makes required investments, covers operating expenses

and experiences a profit or loss distinct from that of any client. In addition to looking at control issues, government agencies consider evidence of the nature of the relationship between the parties: Is there a written contract between them — and if so, are its terms consistent with a contracting agreement? Does evidence suggest that the “independent contractor” is an independent business that makes its services available to any and all potential clients?

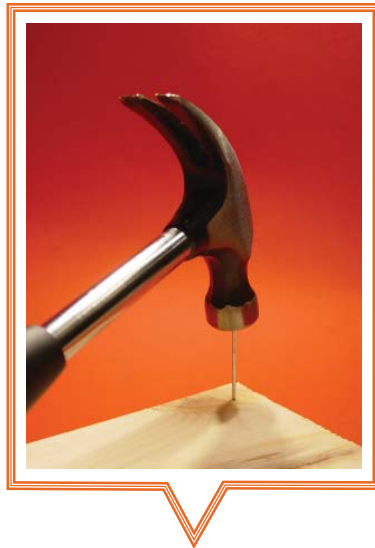
## Changes on the Home Front

**New Jersey’s Construction Industry Independent Contractor Act**, enacted in 2007, is generally considered the most aggressive piece of independent

contractor legislation in the nation. It creates a rebuttable presumption that construction workers are employees of any company that engages them, and imposes severe civil and criminal penalties for violations, including jail time, high fines, stop work orders and suspension of a company’s contractor registration.

## New York’s Joint Employment Task

**Force on Employee Classification** was formed in 2007 in order to increase inter-agency cooperation in identifying and addressing classification errors. The Task Force includes the heads of the New York State Department of Labor, the Division of Taxation and



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Finance, the Workers’ Compensation Board, the Attorney General’s Office and the New York City Comptroller’s Office. It has already conducted numerous joint sweeps, resulting in the collection of millions of dollars in back payroll taxes and related obligations, and has also turned up numerous violations of other labor and wage laws in the process.

## Changes in Washington

In 2007, the Internal Revenue Service announced its intention to begin a major effort to root out misclassification beginning with the 2008 tax year. The IRS has also entered into new agreements with most states to share the results of employment tax examinations — hence, a company that has a decision made against it by its state unemployment agency regarding the classification of a former worker could find itself subjected to an IRS audit covering all similarly situated workers. Moreover, the IRS has made new tools available via the Internet to encourage workers to determine for themselves whether they are truly self-employed or are employees.

It is clear that the current administration intends to support this trend toward increased scrutiny and enforcement. Senator Barak Obama introduced 2007’s *Independent Contractor Proper Classification Act* in the U.S. Senate, which sought to amend the tax code to eliminate provisions that protect companies from retroactive taxes when they make good faith classification errors. In 2008, Obama co-sponsored the *Employee Misclassification Act*, which would amend the Fair

Labor Standards Act to increase corporate recordkeeping in relation to independent contractors and add penalties for worker misclassification. The *Taxpayer Responsibility, Accountability and Consistency Act*, introduced last year, would also amend the tax code to discourage misclassification. It is likely that some form of new misclassification legislation will be enacted during this Congressional term. Also, President Obama's choice of New York Labor Commissioner **M. Patricia Smith** as Solicitor of the U.S. Department of Labor is notable, since she has headed the *New York Joint Employment Task Force on Employee Classification* since its inception.

### Avoiding Independent Contractor Problems

It is essential to think twice before deciding to "1099" a new worker, because an error can cause significant liability under income tax, social security, Medicare, unemployment insurance, workers compensation, state disability insurance, wage and hour and benefits laws, not to mention the new and pending legislation already discussed. To prevent inadvertent misclassification:

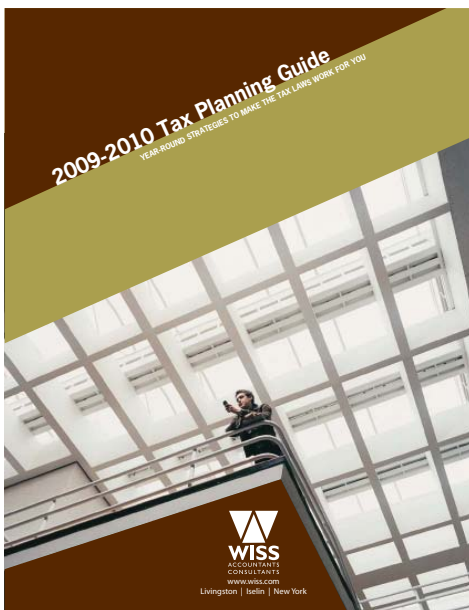
- Speak to your accountant before determining whether a new worker should be paid on a W-2 or a 1099. If you need additional information, speak to employment counsel.
- Consider using an independent contractor agreement — it can be a valuable protection, but only if it is carefully drafted. A faulty "IC" contract can end up looking more like an employment agreement and work against you.
- Demand that independent contractors provide you with invoices that itemize the work done and include the contractor's legal name or d/b/a and a legitimate business address.
- Collect evidence of the contractor's independent status, such as a business card.
- Don't train or micro-manage independent contractors, or reimburse them for expenses incurred — keep them at arm's length.

### Moving Forward

If you realize that you have existing "independent contractor" relationships that may not pass government scrutiny, proceed cautiously. Your accountant and your employment counsel can help you assure your legal protection when taking steps such as:

- Clearly defining true independent contractor relationships through the use of agreements and other tools, so that the nature of these relationships will be readily apparent to any government examiner.
- Reclassifying workers as employees, if appropriate, making certain that all necessary steps are taken to effect the change and to establish the good faith basis of any prior error.
- Given the current attention to independent contractor issues at both the federal and state levels, it would be wise for all companies to re-examine their use of independent contractors. ▼

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## It's time to start tax planning before year's end.

Download your copy of the 2009-2010 WISS Tax Planning Guide at [www.wiss.com](http://www.wiss.com).

This Tax Planning Guide highlights recent tax law changes and provides an overview of tax breaks and planning strategies for individuals, families, investors and business owners.

### Learn More About:

- Ways to save tax on investments and real estate
- Tax-smart ideas for funding education
- Saving for retirement
- Transferring wealth to your heirs

Because thorough tax planning is more important than ever, check with your WISS tax or financial advisor about which strategies are best for you.

# Planning for Liberalized IRA-to-Roth-IRA Conversion Rules in 2010

by Kevin J. Kerrigan, CPA

Next year will be a pivotal one for retirement planning, as it will be the first year in which taxpayers will be able to convert funds in regular IRAs (as well as qualified plan funds) to Roth IRAs regardless of their income level. This new conversion option poses significant tax planning challenges and opportunities for 2009, 2010 and 2011.

## Conversions to

**Roth IRAs.** For 2009, taxpayers (other than married persons filing separately) with modified adjusted gross income (AGI) of \$100,000 or less may convert amounts in a traditional IRA to amounts in a Roth IRA. A conversion from a regular IRA to a Roth IRA

is subject to tax as if it were distributed from the traditional IRA but isn't subject to the 10% premature distribution tax. After Dec. 31, 2007, distributions from a Code Sec. 401(a) qualified plan also may be rolled over to a Roth IRA.

## Major change coming next year.

For tax years beginning after 2009, the \$100,000 modified AGI limit on conversions of traditional IRAs to Roth IRAs is eliminated. Additionally, married taxpayers filing a separate return will be able to convert amounts in a traditional IRA into a Roth IRA (currently they are barred from doing so).

## Why make an IRA-to-Roth IRA

**conversion?** Roth IRAs have two major advantages over regular IRAs:

(1) Distributions from regular IRAs are taxed as ordinary income (except to the extent they represent nondeductible contributions). By contrast, Roth IRA distributions are tax-free if they are "qualified distributions," that is, if they are made (1) after the 5-tax-year period that begins with the first tax year for which the taxpayer made a contribution to a Roth IRA, and (2)

when the account owner is 59 1/2 years of age or older, or on account of death, disability, or the purchase of a home by a qualified first-time homebuyer (limited to \$10,000).

(2) Regular IRAs are subject to the lifetime required minimum distribution (RMD) rules that generally require minimum annual distributions to be made commencing in the year following the year in which the IRA owner attains age 70 1/2. By contrast, Roth IRAs aren't subject to the lifetime RMD rules that apply to regular IRAs (as well as individual account qualified plans).



A similar comparison could be made between distributions from qualified retirement plans and Roth IRAs.

There are other tax advantages: Because distributions from Roth IRAs are tax-free (if they are qualified distributions), they may keep a taxpayer from being taxed in a higher tax bracket that would otherwise apply if he were withdrawing taxable distributions, don't enter into the calculation of tax owed on Social Security payments, and have no effect on AGI-based deductions. What is more, the benefits flow through to beneficiaries of Roth IRA accounts, who also can make tax-free withdrawals from such accounts (they are, however, subject to the same annual post-death minimum distribution rules that apply to beneficiaries of regular IRAs).

Another advantage of a Roth conversion, primarily for high-wealth taxpayers, is that it will reduce one's estate. A Roth conversion is considered a distribution, causing the

tax to be paid when a traditional IRA is converted to a Roth IRA. Consequently, a taxpayer's assets and estate are reduced by the tax paid due to the Roth conversion.

## Who should make IRA-to-Roth

**IRA conversions?** Converting some or all of an IRA to a Roth should be considered by everyone but below are three criteria that increase the benefit:

The individual has a number of years to go before retirement (and are therefore able to recoup the dollars that are lost to taxes on account of the conversion);

- The individual anticipates being taxed in a higher bracket in the future than they are now; and
- The individual can pay the tax on the conversion from non-retirement-account assets (otherwise, there will be a smaller buildup of tax-free earnings in the depleted retirement account).

## Complicating factor for 2010

**conversions.** A unique income inclusion rule will apply for IRA-to-Roth-IRA conversions occurring in 2010. Unless a taxpayer elects otherwise, none of the gross income from the conversion is included in income in 2010; half of the income resulting from the conversion will be includable in gross income in 2011 and the other half in 2012.



A major issue in making this choice is the tax-rate picture after 2010. Absent Congressional action, after 2010 the tax brackets above the 15% bracket will revert

to their pre-2001 levels. That means the top four brackets will be 39.6%, 36%, 31%, and 28%, instead of the

(continued on page 7)

current top four brackets of 35%, 33%, 28%, and 25%. The Administration has proposed to increase taxes only for those making \$250,000, but it is difficult, at this point in time, to predict who will get hit by higher rates. What's more, there are proposals on the table to help finance health reform with a surtax on higher-income taxpayers.

**What do to this year?** Taxpayers who intend to take advantage of the new conversion option next year should consider the following strategies:

- Non-high-income taxpayers who are able to make deductible IRA contributions this year should do so. They'll reduce their 2009 tax bill and, if they make the conversion to Roth IRA next year, they won't have to pay back the tax savings until 2011 and 2012.
- High income taxpayers can increase the conversion amount by making nondeductible IRA contributions this year.

- Do the analysis and make the determination in 2009. A conversion early in 2010 could precede a market up-turn. If the market goes down after converting, you can re-convert back to the regular IRA and essentially get a do-over. ▼

*For additional information, contact*

*Kevin Kerrigan, CPA, Partner at [kkerrigan@wiss.com](mailto:kkerrigan@wiss.com)*

## Save the Date — June 21, 2010 8th Annual WISS Charity Golf Classic

Cedar Hill Country Club

Livingston, New Jersey



The Golf Outing is the only major fund raising activity that supports the WISS Philanthropic Foundation. Monies raised fund accounting scholarships at colleges and universities throughout the state as well as various 501(c)(3) charities.

## Technology Usage Policies, Secure or Insecure? That is the Question

*by Keith Johnson, WISS IT Specialist*

In any organization security is always an issue, especially in terms of technology and computers. Your company may not be the victim of nefarious cyber crimes but you do have employees that are violating IT policies on a daily basis. They don't do this with the intent of causing damage — it is merely a by-product of their lack of knowledge regarding computer security and the risks that are involved.

There are three major reasons why users violate tech-security policies.

**(1) Gray areas exist in IT policies.** Not all actions a user conducts on their PC are considered prohibited or acceptable. Sometimes one program that may be deemed unacceptable for use at work may have some business applications, for example social networking sites. In order to minimize any risk involved with these "gray area programs" the use of them must be documented and confirmed to be work applicable by higher level staff.

**(2) Although users are aware of the rules, no one is there to enforce them.** In these difficult economic times it can be unfeasible to staff someone who is focused primarily on IT security. Furthermore, many organizations may not have the need for a full time security professional. It is important that your IT policies be not only clear and firm but



Although users are aware of the rules, no one is there to enforce them.

also enforced when necessary. If a warning or consequence system has to be instituted, coordinate with management staff and the necessary departments to have those penalties enforced.

**(3) The rules get in the way of productivity.** When access to sites for downloads and personal emails are blocked, people will attempt to find ways around them and many will succeed. This can be a double-edged sword, although employees may need to have these tools to do their jobs, those same tools can negatively impact the IT infrastructure if caution is not exercised. It is important to educate your users on the proper usage of sites that are allowed for business, for example an instant messaging client or web email program. Inform your users that the rules are in place not to be a policing entity, but to protect them, as well as the entire organization, from the tremendous amount of viruses, spyware, Trojan downloaders, and many other security risks that would be present without those blocks.

Constantly assess your current policies and modify them when necessary. Collaborate with department heads and other leaders to make the best policies without making them completely restrictive. Security policies and security in general is an imperative element to any organization, regardless of its size. ▼



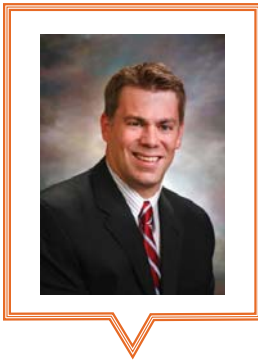
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Send your name and email address to  
ekumar@wiss.com.

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## Partner News

And a warm welcome to the partners at FD,  
a Division of WISS & Company.



Alex J. Narcise, CPA was promoted to partner, effective July 2009. Alex is a member of the firm's accounting and auditing practice and has over 13 years of experience working with middle-market commercial clients. He joined the firm in 2004.



Arthur Schwartzman, CPA



Philip London, CPA, MBA



Mark B. Feldstein, CPA, PFS



Stace Balitsos, CPA