

**NEW DEVELOPMENTS, YEAR END UPDATE
AND 1040 CONSIDERATIONS
JANUARY 2012**

Prepared by:
R.S. ABRAMS & CO., LLP
3033 Express Drive North, Suite 100
Islandia, NY 11749
631-234-4444
www.rsabrams.com

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I. CAFETERIA PLANS UPDATE

Medical Mileage

- 19 cents per mile for January 1, 2011 - June 30, 2011
- 23.5 cents per mile for July 1, 2011 – December 31, 2011
- 23 cents per mile for 2012

IRS W-2 Form, Box 12

IRS Notice 2011-28 was issued to clarify the Health Care Reform Act Law outlining what is required to be reported on IRS W-2 Form, Box 12. The Notice consists of 31 questions and answers related to W-2 reporting. The amount of the Flexible Savings Account (FSA) salary reduction is not required to be reported in Box 12 of the W-2 form. However, if the amount available in the FSA exceeds the salary reduction amount, the difference is required to be reported on IRS W-2 Form, Box 12. This would occur when there are employer flex spending plan credits and employer matching FSA contributions.

Rollovers

Effective January 1, 2012, qualified distributions from health flexible spending accounts (FSA) and health reimbursement arrangements (HRA) to a health savings account (HSA) will be prohibited.

Use-It-Or-Lose-It Rule

The Medical Flexible Spending Account Improvement Act was introduced to Congress on March 10, 2011 that would eliminate the use-it-or-lose-it stipulation. Under the current regulations employees have to forfeit the remaining balance to their employer. However, if the new bill becomes law it would permit employees to withdraw funds and pay taxes on the remaining funds in health FSAs.

Over-The-Counter Medicine And Drugs

The IRS issued Notice 2010-59 in September 2010, which relates to the prohibition of un-prescribed over-the-counter (OTC) medicine and drugs that became effective January 1, 2011 for health flexible spending accounts (FSAs). According to the Notice, over the counter medication is not eligible for reimbursement without a doctor's prescription. The Notice defines a prescription as "a written or electronic order for a medicine or drug that meets the legal requirements of a prescription in the state in which the medical expense is incurred and that is issued by an individual who is legally authorized to issue a prescription in that state." However, the Notice does state that certain OTC items will be reimbursable without a prescription. These items include:

- Equipment (for example, crutches)
- Supplies (for example, bandages)
- Diagnostic devices (for example, blood sugar test kits)
- Insulin

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The IRS issued Notice 2011-5 on December 23, 2011 which modifies IRS Notice 2010-59 to allow the continual use of debit cards for purchasing prescribed over-the-counter medicine and drugs through the use of a flexible spending account. However, there are stipulations when utilizing debit cards, including but not limited to; requiring a prescription for medication and retaining proper documentation. IRS Notice 2011-5 is effective for over-the-counter purchases of medications and drugs made after January 5, 2011.

New Limitations

The recent Health Reform Bill will reduce future pre-taxed health benefits to a limit of \$2,500. The effective date of this new limit is January 1, 2013.

Covered Expenses

Hearing Aid Repairs

The IRS issued Information Letter 2011-0035, which qualifies hearing aid repairs as a reimbursable expense through a flexible spending account (FSA). However, it depends upon the terms of the FSA plan.

Breast Pumps

The IRS issued Announcement 2011-14 which now considers the cost of breast pumps a qualified reimbursement expense through a flexible spending account (FSA).

Refer to Appendix G for an updated “Flexible Benefit Health Care Reimbursement Listings”.

II. TAX SHELTER ANNUITIES – LIMITATIONS

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Exclusion for elective deferrals [IRC §402(g)(1)]	\$15,500	\$16,500	\$16,500	\$16,500	\$17,000
Limitation on Total elective and non-elective contributions [IRC §415(c)(1)A]	46,000	49,000	49,000	49,000	50,000
Limitation on deferrals under government [IRC §457 (b)(2), IRC §457(c)(1)]	15,500	16,500	16,500	16,500	17,000
Age 50 catch-up contribution limit (non-SIMPLE plans) [IRC §414(v)(2)(B)(i)]	5,000	5,500	5,500	5,500	5,500
15 years of service catch-up limit	3,000	3,000	3,000	3,000	3,000

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Refer to Appendix B for “403(B) Salary Reduction Contribution Eligibility Notification” and Appendix C and Appendix D for Certification Work Sheets to assist in calculating limitations for tax shelter annuities.

III. RESERVES AVAILABLE TO SCHOOL DISTRICTS AND LOCAL GOVERNMENTS

AS PERMITTED BY GENERAL MUNICIPAL LAW:

Capital Reserve

Capital reserves (GML §6-c, 6-g) available to counties, cities, villages, towns, fire districts, and town or county sewer and water improvement districts is used to finance all or part of the cost of construction, reconstruction or acquisition of a *specific* or *type* capital improvement or the acquisition of a *specific* or a *type* item of equipment. Creation and use of a capital reserve is as follows:

Specific Capital Reserves

The creation of a specific capital reserve requires Board resolution, which must state the estimated maximum cost of the item of equipment or improvement. The establishment of a specific capital reserve is subject to permissive referendum if the authorization to issue indebtedness for the same improvement or equipment is subject to either a permissive or mandatory referendum, except for fire districts. For fire districts, the qualified electors of the fire district must vote and approve the establishment of the specific capital reserve. Expenditures from a specific capital reserve must be authorized by the Board.

Type Capital Reserves

The creation of a type capital reserve should be authorized by the Board by formal resolution however, there is no requirement to state an estimated maximum cost of the equipment or improvement in the resolution. Except for fire districts, a referendum is not required when establishing a type capital reserve. For fire districts, the qualified electors of the fire district must vote and approve the establishment of the specific capital reserve. For certain municipalities, expenditures from a type capital reserve are subject to permissive referendum. If the authorization for the purchase of such improvement or equipment is subject to permissive or mandatory referendum, the expenditure for the same purpose is generally subject to permissive referendum.

The capital reserves are funded by budgetary appropriations and revenues not required by law to be paid into any other fund or account. After all outstanding claims have been satisfied, the Board may appropriate all or part of any unexpended balances remaining in a specific or type capital reserve to another capital reserve without referendum. If a specific capital reserve was established and the improvement or item of equipment was not acquired or completed, the transfer of funds is subject to permissive referendum if the authorization for the creation of the reserve was subject to permissive referendum. Additionally, while subject to a public hearing with fifteen days notice, the unexpended balance may be transferred to a retirement contribution reserve.

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Employee Benefit Accrued Liability Reserve

Reserve for employee benefit accrued liability (GML §6-p) is used to reserve funds for the payment of accrued employee benefits due an employee upon termination of the employee's service (long-term compensated absences liability). This reserve may be established by a majority vote of the Board, and is funded by budgetary appropriations with funds from other reserves as authorized under Article 2 of the General Municipal Law by resolution subject to permissive referendum and such funds that may be legally appropriated. General Municipal Law (GML) allows local governments and school districts to establish an Employee Benefit Accrued Liability Reserve (EBALR) for the purpose of paying only costs associated with compensated leave paid directly to or on behalf of employees upon separation from employment. Expenditures can be made without voter approval. The reserve is accounted for separate and apart from all other funds of the school district and local government. This reserve is accounted for in the general fund.

However, unlike the liability calculation for compensated absences under GASB No. 16, school districts and local governments cannot legally accumulate funds in an EBALR for salary-related costs, such as FICA and Medicare taxes. Also, Other Post Employment Benefit (OPEB) costs, employer retirement contributions and/or retirement incentives for employees cannot be funded by EBALR. Presently, there is no other reserve fund authorized by the GML, or any other law for these salary-related costs. Instead, the school districts and local governments must appropriate funds in each year's budget to pay for salary-related costs associated with separation from employment.

Insurance Reserve

The insurance reserve (GML §6-n) is used to pay liability, casualty and other types of losses. The reserve may also be utilized to pay for expert or professional services in connection with the investigation, adjustment, or settlement of claims, actions or judgments. It does not include accident, health, life or other specified losses. The reserve may be established by Board action and is funded by budgetary appropriations and such other funds as may be legally appropriated. The reserve is accounted for separate and apart from all other funds of the school district. Expenditures can be made without voter approval. The annual contribution to the reserve may not exceed the greater of \$33,000 or 5 percent of the annual budget. If the Board decides it no longer needs an insurance reserve fund, it may transfer the monies remaining to any other reserve fund as authorized under Article 2 of the General Municipal Law or by Education Law Section 3651, subject to any liabilities incurred or accrued against the fund. Board members commit a misdemeanor if they authorize a withdrawal from or expend money withdrawn from the insurance reserve fund for any purpose not authorized by law. This reserve is accounted for in the general fund.

Mandatory Reserve Fund

Mandatory reserve fund (GML §6-1) is required to be established to restrict the use of the proceeds of the cash sale of property or capital improvements and state and federal aid received for a capital improvements, for the purpose of retiring the outstanding obligations that were issued to finance the improvements. The creation of the reserve is mandatory and voter approval is not required to expend monies from the reserve. Expenditures may only be made to retire the obligations issued to finance the capital improvement sold or for which federal or state aid is received. Board members commit a misdemeanor if they authorize a withdrawal from or expend money withdrawn from the repair reserve

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fund for any purpose not authorized by law. Excess funds that may remain in the reserve after all of the outstanding obligations have been retired may be used for any lawful district purpose. The reserve is accounted for in the debt service fund.

Repair Reserve

Repair reserve (GML §6-d) is used to pay the cost of repairs of capital improvements or equipment, which repairs are of a type not recurring annually or shorter intervals. The Board without voter approval may establish a repair reserve fund by a majority vote of its members. The reserve is accounted for separate and apart from all other funds of the school district. Voter approval is required to fund this reserve (Opinion of the New York State Comptroller 81-401). Expenditures from this reserve may be made only after a public hearing has been held and at least five days has elapsed between the publication of the notice of hearing and the date specified for the hearing, except in emergency situations. If no hearing is held, the Board must pass a resolution that is approved by at least a two-thirds vote. Additionally, at least one half of the amount expended must be repaid to the reserve fund in the next fiscal year and the balance be repaid by the end of the following fiscal year. Board members commit a misdemeanor if they authorize a withdrawal from or expend money withdrawn from the repair reserve fund for any purpose not authorized by law. This reserve is accounted for in the general fund.

Retirement Contribution Reserve

Retirement contribution reserve (GML §6-r) is used for the purpose of financing retirement contributions made to the New York State and Local Employees' Retirement System. The reserve may be established by Board action and is funded by budgetary appropriation, revenues that are not required to be paid into any other fund or account, transfers from other reserve funds within legal requirements, and such other funds as may be legally appropriated. Expenditures from this reserve may only be made after the Board has passed a resolution authorizing the financing of retirement contributions. The reserve must be accounted for separate and apart from all other funds, and a detailed report of the operation and condition of the fund must be provided to the Board. If the Board decides it no longer needs a retirement contribution reserve fund, it may terminate the reserve fund by formal resolution and transfer the monies remaining to any other reserve fund as authorized under General Municipal Law or by Education Law Section 3651. This reserve is accounted for in the general fund.

Unemployment Insurance Payment Reserve

Unemployment insurance payment reserve (GML §6-m) is used to pay the cost of reimbursement to the State Unemployment Insurance Fund for payments made to claimants where the employer has elected to use the benefit reimbursement method (instead of the contribution method). The reserve may be established by Board action and is funded by budgetary appropriations and such other funds as may be legally appropriated. Expenditures can be made without voter approval. Expenditures may be made only as required by law to pay into the Unemployment Insurance Fund in an amount that is equivalent to the amount of benefits paid to claimants. Within sixty days after the end of any fiscal year, excess amounts may either be transferred to another reserve or the excess applied to the appropriations of the next succeeding fiscal year's budget. This reserve is accounted for in the general fund.

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Workers' Compensation Reserve

Workers' compensation reserve (GML §6-j) is used to pay for compensation benefits and other expenses authorized by Article 2 of the Workers' Compensation Law, and for payment of expenses of administering this self-insurance program. The reserve may be established by Board action, and is funded by budgetary appropriations and such other funds as may be legally appropriated. The reserve is accounted for separate and apart from all other funds of the school district. Expenditures can be made without voter approval. Within sixty days after the end of any fiscal year, excess amounts may either be transferred to another reserve or the excess applied to the appropriations of the next succeeding fiscal year's budget. This reserve is accounted for in the general fund.

AS PER EDUCATION LAW:

Capital Reserve

Capital reserves (Education Law §3651) available to school districts are used to pay the cost of any object or purpose for which bonds may be issued. The creation of a capital reserve fund requires authorization by a majority of the voters establishing the purpose of the reserve; the ultimate amount, its probable term and the source of the funds. Expenditures may be made from the reserve only for a specific purpose further authorized by the voters. The form for the required legal notice for the vote on establishing and funding the reserve and the form of the proposition to be placed on the ballot are set forth in §3651 of the Education Law. If the voters determine that the original purpose for which the reserve was established is no longer needed, the reserve may be liquidated, the proceeds first be applied to any outstanding indebtedness and the remaining balance, if any, be applied to reduce the annual tax levy subject to certain limitations set in the law. This reserve is accounted for in the general fund.

Property Loss/Liability Reserve

The property loss/liability reserve (Education Law §1709(8-c)) is used to pay for property loss and liability claims incurred. The reserve may be established by Board action and is funded by budgetary appropriations and such other funds as may be legally appropriated. Separate reserve funds must be established for property loss and for liability claims. The separate identify of each fund must be maintained, whether its assets consist of cash or investments, or both. Expenditures can be made without voter approval. For school districts, each reserve may not exceed the greater of 3% of the annual budget or \$15,000. For BOCES, the total amount of reserves cannot exceed 3% of the annual budget. Once the reserve is established, the reserve fund may not be reduced (other than by payments for losses for which the reserve was established) below the estimated amount necessary to cover unsettled claims or suits. This reserve is accounted for in the general fund.

Reserve for Inventory

Reserve for inventory is used to restrict that portion of fund balance, which is not available for appropriation. This reserve is accounted for in the school lunch fund.

Reserve for Tax Reduction

The reserve for tax reduction (Education Law, §1604 & §1709) is for the gradual use of the proceeds of the sale of school district real property where such proceeds are not required to be placed in a mandatory

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reserve for debt service. Specifically, the District is permitted to retain the proceeds of the sale for a period not to exceed ten years and to use them during that period for tax reduction. The reserve may be established by Board action and expenditures can be made without voter approval. This reserve is accounted in the general fund.

Tax Certiorari Reserve

Chapter 588 of the laws of 1988 amended district real property §3651 of the Education Law to permit the establishment of a reserve fund for tax certiorari and to expend from the fund without voter approval of the qualified voters of the school district. The reserve is funded by budgetary appropriations

The new Chapter further stipulates that the total of the monies held in the reserve fund shall not exceed the amount which might reasonably be deemed necessary to meet anticipated judgments and claims arising out of tax certiorari proceedings.

Any monies deposited to such a reserve fund which are not expended for tax certiorari proceedings in the year such monies are deposited must be returned to the general fund on or before the first day of the fourth fiscal year after deposit of these monies. This reserve is accounted in the general fund.

Beginning in 2013, financial responsibility will shift from Nassau County to school districts where the districts will now be required to pay tax certiorari refunds to residents and business owners who successfully challenge their property tax assessments.

Excess Fund Balance – Creation of Reserves

If a District has excess fund balance, the District may utilize excess fund balance to establish reserve funds that do not require prior voter approval. The Commissioner has consistently ruled that districts may utilize these reserves provided that such reserve funds are established and the excess fund balance is appropriated to the reserve prior to the issuance of the tax levy. (*Appeal of Muench, 43 Ed. Dept. Rep. 419, Dec. No. 15,039 [2004]; Real Property Tax Law Section 1318 (1)*).

Allocation of Interest

Interest earned on the monies residing in reserves throughout the year must have interest allocated based on their respective balances.

IV. REPEAL OF NASSAU COUNTY GUARANTEE LEGISLATION

On October 29, 2010, Nassau County signed into law Local Law No. 18-2010. The Law repeals the Nassau County Administrative Code section 6-24.0, 6-25.0 and 6-26.0, referred to as the “County Guarantee”. The County Guarantee currently requires Nassau County to be responsible for refunds, cancellations, and other payments related to tax revenues received by towns, special districts and school districts. However, this new legislation aims to repeal these requirements and charge the jurisdiction that receives the benefit of tax revenues with the responsibility for the cost of refunds, cancellations and other payments related to tax revenues received.

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Although this law is being challenged by state and local governments it will take effect and applies to the assessment rolls that are finalized in April, 2012.

V. OPEN MEETINGS LEGISLATION

On January 3, 2012, Governor Cuomo signed into law Chapter 603 of the Laws of 2011 which requires local governments to make available to the public, any documents related to an open meeting that will be discussed at that meeting. Documents related to resolutions, laws, regulations, or policies must be made available to the public either prior to the meeting or at the meeting. Although a local government is required to provide these documents to the public they may charge a reasonable fee. In addition, this legislation also requires a local government to post this information on their website before the meeting, if possible. The Law will be going into effect on February 2, 2012.

VI. PROPERTY TAX CAP LEGISLATION

School Districts

Chapter 97 of the Laws of 2011 established a property tax levy limit that restricts the amount of property taxes school districts can levy. Commencing with the fiscal year that begins in 2012 (and currently lasting through June 15, 2016), school districts are not authorized to increase its property tax levy by more than 2% or the rate of inflation, whichever is less. However certain tax levy limit exclusions may apply when calculating the limit. The provision is not applicable to the “Big 5” city school districts. School districts proposing an annual budget that exceeds the district’s tax levy limit can override the limit as long as it is approved by 60% of the voters. Additionally, a board of education separate proposition or voter proposition resulting in the school district’s tax levy limit to be exceeded must be approved by 60% of the voters.

The tax levy limit exclusions include:

- Expenditures resulting from court orders or judgments against the district arising out of tort actions for an amount in excess of 5% of the total taxes levied in the prior school year;
- Expenditures for employer contributions to the New York State and Local Employees’ Retirement System and New York State Teachers’ Retirement System caused by the growth in the system average actuarial contribution rate in excess of 2% ; and
- Local portion of capital expenditures.

Adjustments to the tax levy limit include:

- An allowance to carryover to the current fiscal year the amount by which the tax levy for the prior fiscal year was below the levy limit for that year as long as it does not exceed 1.5% of the levy limit (not available for the first year of the tax cap); and
- An allowance to adjust the levy limit upward, based on a growth factor calculated by the NYS Commissioner of Taxation and Finance, to account for physical and quantity growth in the property tax base. The quantity change factor is to be calculated no later than February 15th for the coming school year.

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Budget brochures sent to community members are to include the school district's tax levy limit and the proposed tax levy before exclusions. In the event that the school district budget is not approved after two budget votes, or after one defeat where the school district decides not to resubmit a budget for a second vote, school districts are required to adopt a budget with a tax levy less than or equal to that of the prior year. School districts are also required to include information about the applicable tax levy limit on their property tax report cards.

All school districts are required to submit their calculation of the tax levy limit to the NYS Office of the State Comptroller (OSC), Commissioner of Education, and the Commissioner of Taxation and Finance no later than March 1st of each year. The calculation is to be submitted online through the OSC website utilizing a User ID and PIN for the submission. Any excess levy funds that are collected due to clerical or technical errors are to be held in a reserve in a manner to be determined by the OSC. Those funds, including interest earned, are to be used to offset the tax levy for the following school year.

Local Governments

Chapter 97 of the Laws of 2011 established a property tax levy limit that restricts the amount of property taxes local governments including, but not limited to, counties, cities, towns, villages, fire districts and special district can levy. Commencing with fiscal years that begin in 2012 (and currently lasting through June 15, 2016), local governments are not authorized to increase its property tax levy by more than 2% or the rate of inflation, whichever is less. However, certain tax levy limit exclusions may apply. Local governments are authorized to exceed the tax levy limit only if the governing body enacts a local law or resolution by a vote of 60 percent of the total voting power to override the property tax cap.

The tax levy limit exclusions include:

- Judgments or court orders arising out of tort actions in excess of 5% of the local government's levy; and
- Expenditures for employer contributions to the New York State and Local Employees' Retirement System and New York State and Local Police and Fire Retirement System caused by the growth in the system average actuarial contribution rate in excess of 2%.

Adjustments to the tax levy limit include:

- An allowance to carryover to the current fiscal year the amount by which the tax levy for the prior fiscal year was below the levy limit for that year as long as it does not exceed 1.5% of the levy limit (not available for the first year of the tax cap);
- An allowance to adjust the levy limit upward, based on a growth factor calculated by the NYS Commissioner of Taxation and Finance, to account for physical or quantity growth in the property tax base; and
- Adjustments for costs and/or savings, as determined by the State Comptroller, due to the transfer of functions from one local government to another.

All local governments are required to submit their calculation of the tax levy limit to the NYS Office of State Comptroller (OSC) before the adoption of their annual budgets. The calculation is to be submitted online through the OSC website utilizing a User ID and PIN for the submission. Any excess levy funds

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that are collected due to clerical or technical errors are to be held in a reserve in a manner to be determined by the OSC. Those funds, including interest earned, are to be used to offset the tax levy for the following fiscal year. Additionally, the OSC may audit the calculation at a later time and if the OSC finds that the local government miscalculated the levy, the local government must place an amount equal to the excess in the reserve.

In November 2011, the OSC issued a release “Fire Districts Failed to Comply With the Governor’s Property Tax Cap Law”. In that release it was noted that 613 out of 882 of New York’s fire districts did not submit their property tax levy calculation to the OSC prior to the adoption of the annual budget to comply with Chapter 97 of the Laws of 2011. In January 2012, the OSC issued a release “DiNapoli Auditors Help Municipalities Comply With Tax Cap”. In that release it was noted that 43 or 5 percent of the municipalities audited by OSC inappropriately exceeded the allowable property tax levy limit.

VII. GOVERNOR’S MANDATE RELIEF LEGISLATION

Through a joint agreement between Governor Cuomo and the State Legislature a Mandate Relief Redesign Team was established through Executive Order No. 6. The objective of the Mandate Relief Redesign Team is to redesign and reform governments and to help cut spending while improving accountability and efficiency.

The Mandate Relief Redesign Team issued a Final Report outlining many of the already enacted laws through their review and work with the Governor and Legislature. The following are some of the recently enacted laws:

- Procurement Practices
 - Includes purchasing from Federal General Services Administration contracts and OSC to offer centralized services relating to electricity.
- Unnecessary Paperwork
 - Includes utilizing an electronic filing system to submit required filings with the Department of State.
- Highway and Transportation Costs
 - Allows local governments to use their own labor on Consolidated Local Street and Highway Improvement Programs “CHIPS” projects costing from \$100,000 to \$250,000.
- Relief to School Districts
 - Allows school districts to share a superintendent if each school district has fewer than 1,000 students. (Maximum of 3 school districts).
 - Allow Boards of Education to establish a Deputy Claims Auditor position and allow claims auditors to sample claims packages for school districts that have 10,000 or more students.
 - Reduce late filing building aid penalties to more suitable fees.
 - Amend the Pre-K children census data filing requirement from annually to every 2 years.

The full report provides details regarding recent legislation as well as future proposals and can be found online at:

http://www.governor.ny.gov/assets/documents/Final_Mandate_Relief_Report.pdf

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VIII. EMPLOYER TAX AND REPORTING GUIDELINES

A. SOCIAL SECURITY ADMINISTRATION AND MAGNETIC MEDIA

Employers and authorized reporting agents requesting verification of names and social security numbers between 51 and 250,000 individuals can no longer use magnetic media to submit their requests to the Social Security Administration. Instead the Social Security Administration offers employers and authorized reporting agents three methods for verifying employee social security numbers.

- **Internet.** Verify up to 10 names and numbers (per screen) online and receive immediate results, or upload batch files of up to 250,000 names and numbers and usually receive results the next government business day. Registration is required and can be done at www.ssa.gov/bsowelcome.htm.
- **Telephone.** Verify up to 10 names and numbers by calling 1-800-772-6270 or 1-800-772-1213.
- **Paper.** Verify up to 300 names and numbers by submitting a paper request. For information, see *Appendix A* in the Social Security Number Verification System (SSNVS) handbook at www.ssa.gov/employer/ssnvshandbk/appendix.htm.

B. METROPOLITAN COMMUTER TRANSPORTATION MOBILITY TAX

The Metropolitan Commuter Transportation Mobility Tax (“MCTMT”) was a tax imposed on certain employers and self-employed individuals engaged in business within the metropolitan commuter transportation district. (This includes the counties of New York (Manhattan), Bronx, Kings (Brooklyn), Queens, Richmond (Staten Island), Rockland, Nassau, Suffolk, Orange, Putnam, Dutchess and Westchester. The tax that has been imposed is equal to .34 percent of wages paid.

Education Law Section 3609-g provides for State reimbursement of this tax to public school districts (BOCES is exempt). The following revenue and expenditures codes should be utilized when paying the tax and receiving reimbursements:

1980.4 - Payment of MTA Payroll Tax (Expenditure)

2730.0 - Reimbursement of MTA Payroll Tax Expenditures (Revenue)

On December 12, 2011, Governor Cuomo signed the Middle Class Tax Cut and Job Creation legislation into law. Part of this legislation reduces or eliminates the MTA tax for a substantial number of employers and self-employed individuals currently paying the MTA tax. The MTA tax has been eliminated for small businesses, which has been defined as those within the MTA region with payrolls between \$10,000 and \$1.25 million. Those with payrolls between \$1.25 million and \$1.75 million will see their MTA tax cut, along with self-employed individuals. All elementary and secondary schools, public and private are exempt from the MTA tax under the new legislation.

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Further guidance and information should be forthcoming.

See <http://www.tax.ny.gov/bus/mctmt/default.htm> for more information as it becomes available.

C. NEW LABOR LAW – NOTICE OF RATE OF PAY

The Wage Theft Prevention Act, which took effect April 9, 2011, provides for greater protection for workers, and includes requirements for reporting pay rates and issuing wage statements. The Act is applicable to all private sector employees (federal, state and local government employers are exempt). The Notice is required to be provided to all employees between January 1st and February 1st of each year beginning in 2012.

One of the key provisions of the Act is the requirement to issue a Notice of Rate of Pay to all employees. The Notice should include, among other things, the employee's rate(s) of pay, the basis of the rate(s) (such as by the hour, shift, week, salary, commission), and the regular pay day. The Notice needs to be given to all new hires at the time of hiring, and to all employees annually by February 1 each year, and within 7 days of a change to any information on the notice (unless the change is listed on the next pay stub). They need to be given in English, and the worker's primary language, if the primary language is one in which the NYS Department of Labor has provided a translated notice. Currently, a template for the Notice has been provided in English, Spanish, Chinese, Korean, Creole, Polish and Russian. For more information, including the sample notices, and a Frequently Asked Questions section, refer to the NYS Department of Labor website, at:

<http://labor.ny.gov/workerprotection/laborstandards/employer/wage-theft-prevention-act.shtm>.

D. IRS W-2 FORM & W-3 FORM REPORTING

W-2 Reporting

Employer-Provided Health Coverage

The Affordable Care Act instituted changes to the W-2 form reporting requirements with regards to employer sponsored health coverage. Employers are required to report the total value of an individual's employee health benefits on their W-2 form, in Box 12, code DD, *Cost of employer-sponsored health coverage*. This reporting is for informational purposes only and does not affect the employees' tax liability. Reporting is optional for tax year 2011, but required for tax year 2012. However, as provided for in IRS Notice 2011-28, reporting remains optional for tax year 2012 for small employers, until further notice. Small employers are those that issued less than 250 W-2 forms in the prior year. Excluded from the reporting requirements, among other things, are:

- Contributions to Archer MSA and HSA plans
- Stand alone dental and vision plans
- Medical flexible spending accounts

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The IRS issued Notice 2012-9, on January 3, 2012, which provides interim guidance, including a question and answer section, on how to report, what coverage to include, and how to determine the amounts to report.

Employee Copies – Must be postmarked by January 31, 2012.

Electronic Payee Statements – If employees give their consent, you may be able to furnish Copies B, C, and 2 of Forms W-2 to your employees electronically. See Pub. 15-A, Employer's Supplemental Tax Guide, for additional information.

Extended Due Date For Electronic Filers – If you file your 2011 Forms W-2 with the Social Security Administration (SSA) electronically, the due date is extended to April 2, 2012.

Form 944 – Use the "944" checkbox in Box **b** of Form W-3 if you filed Form 944, Employer's Annual Federal Tax Return.

Earned Income Credit (EIC) Notice – You must notify employees who have no income tax withheld that they may be able to claim an income tax refund because of the EIC. You can do this by using the official IRS Form W-2 with the EIC notice on the back of Copy B or a substitute Form W-2 with the same statement. You must give your employee Notice 797, Possible Federal Tax Refund Due to the Earned Income Credit (EIC), or your own statement that contains the same wording, if certain conditions apply. For more information, see Section 10 in Pub. 15 (Circular E).

Election Workers – Report on Form W-2 payments of \$600 or more to election workers for services performed in state, county, court and municipal elections. Do not report election worker payments on Form 1099-MISC. Social Security and Medicare taxes apply to election workers who are paid \$1,500 or more (for 2011 & 2012).

Employment Tax Information – Detailed employment tax information (www.irs.gov) is given in

- Publication 15 (Circular E), Employer's Tax Guide
- Publication 15A, Employer's Supplemental Tax Guide
- Publication 15-B, Employer's Tax Guide to Fringe Benefits

Household Workers – Social Security and Medicare taxes apply to wages of household workers who are paid \$1,700 or more (for 2011).

Incorrect Address on Employee's W-2 Form

Employers may reissue a Form W-2 to the employee by placing the Form W-2 with an incorrect employee address in an envelope with the correct address for mailing to employees.

Box 1 – Wages

Include total wages, prizes and awards paid to employees during the year. Also include certain fringe benefits:

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- Taxable cost of group term life insurance over \$50,000.
- Taxable benefits from a Section 125 Plan, i.e., cash in lieu of benefits.
- Certain scholarships and fellowship grants.
- Taxable payments for moving expenses.
- Certain employee business expense reimbursements – payments in excess of the amounts treated as substantiated under an accountable plan and all payments made under a non-accountable plan.
- Cost of current insurance protection under a compensatory split dollar life insurance arrangement.

Box 2 – Federal income tax withheld

Box 3 – Social Security Wages

- Total should not be more than \$106,800 (for 2011).
- Total should not be more than \$110,100 (for 2012).

Box 4 – Social security tax withheld

- 4.20% of amount reported in Box 3, not to exceed \$4,486 (for 2011).
- 4.20% of the first \$18,350 earned through the end of February 2012 & 6.20% of the remaining amount in Box 3, not to exceed \$6,459 (for 2012). Unless additional legislation is approved, the tax rate will revert to the previous unreduced rate of 6.20% March 1, 2012.

Box 5 – Medicare wages

- No wage base limit.

Box 6 – Medicare tax withheld

- 1.45% of amount reported in Box 5.

Box 7 – Social security tips

Box 8 – Allocated tips

Box 9 – Do not enter an amount in Box 9

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Box 10 – Dependent care benefits

- Include dependent care benefits under Section 125 and Section 129. Report excess over \$5,000 in Boxes 1, 3 and 5 as income. If reimbursed in subsequent year for current year, it must be reported on W-2. Health benefits and insurance under Section 125 not included on W-2.

Box 11 – Non-qualified plans

- Show the amount of distributions to an employee from a non-qualified plan or a non-governmental Section 457(b) Plan, also include these distributions in Box 1. Distributions from governmental Section 457(b) plans must be reported on form 1099-R, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts.

Box 12 – Benefits included in Box 1

- Report the total value of taxable fringe benefits included in Box 1. Do not include amounts reported in Box 10.
- Do not report in Box 12 any items that are not listed as Codes A-EE below. (Do not enter more than four codes in Box 12).
- Do not report Section 414(h)(2) contributions in Box 12. Instead use Box 14 for these items, and any other information that you wish to give to your employee.

Applicable Reference Guide for Box 12 codes is as follows:

- A. Uncollected social security or RRTA tax on tips
- B. Uncollected Medicare tax on tips
- C. Taxable cost of group-term life insurance over \$50,000
- D. Elective deferrals under a Section 401(k) cash or deferred arrangement (including a SIMPLE 401 (k) arrangement)
- E. Elective deferrals under a Section 403(b) salary reduction agreement
- F. Elective deferrals under a Section 408(k)(6) salary reduction SEP
- G. Elective deferrals and employer contributions (including non-elective deferrals) to a Section 457(b) deferred compensation plan (state and local government and tax-exempt employers)
- H. Elective deferrals to a Section 501(c)(18)(D) tax-exempt organization plan
- J. Nontaxable sick pay
- K. 20% excise tax on excess golden parachute payments

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- L. Substantiated employee business expense reimbursements (Federal rate)
- M. Uncollected social security or RRTA tax on taxable cost of group-term life insurance coverage over \$50,000 (for former employees)
- N. Uncollected Medicare tax on taxable cost of group-term life insurance coverage over \$50,000 (for former employees)
- O.
- P. Excludable moving expense reimbursements paid directly to employee
- Q. Non-taxable combat pay
- R. Employer contributions to an Archer MSA
- S. Employee salary reduction contributions under a Section 408(p) SIMPLE
- T. Adoption benefits
- V. Income from the exercise of non-statutory stock options
- W. Employer contributions (including employee contributions through a cafeteria plan) to an employee's Health Savings Account (HSA)
- Y. Deferrals under a Section 409A nonqualified deferred compensation plan
- Z. Income under Section 409A on a nonqualified deferred compensation plan
- AA. Designated Roth Contributions under a Section 401(K) Plan
- BB. Designated Roth Contributions under a Section 403 (b) Salary Reduction Agreement
- DD. Cost of employer-sponsored health coverage
- EE. Designated Roth contributions under a governmental Section 457(b) plan

Box 13 Other

Check the boxes that apply.

Statutory employee

Check this box for all statutory employees whose earnings are subject to Social Security and Medicare taxes but not subject to Federal income tax withholding.

Retirement plan

Check this box if the employee was an active participant (for any part of the year) in any of the following:

- 1) a qualified pension, profit-sharing, or stock bonus plan described in Section 401(a) including a 401(k) plan;
- 2) an annuity plan described in Section 403(a);
- 3) an annuity contract or custodial account described in Section 403(b);
- 4) a simplified employee pension (SEP) plan described in Section 408(k);

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- 5) a SIMPLE retirement account described in Section 408(p);
- 6) a trust described in Section 501(c)(18);
- 7) a plan for federal, state, or local government employees or by an agency or instrumentality thereof (other than a section 457 plan).

Third-party sick pay

Check this box only if you are a third-party sick pay payer filing a W-2 Form for an insured's employee or are an employer reporting sick pay payments made by a third party. See Sick Pay Reporting in Section 6 of Pub. 15-A.

Box 14

- Use for any other information you want to give your employee and label each item. For example – Section 414(h) contributions. (Not taxable on federal, taxable on state and city). The lease value of a vehicle provided to your employee and reported in Box 1 must be reported here or on a separate statement to your employee.

Box 15 – Box 20

- Use these boxes to report state and local tax information.

W-3 Reporting

A W-3 Form must be transmitted with copies of Form W-2 and filed by February 29, 2012. However, if you file electronically (not by magnetic media), the due date is April 2, 2012. You may owe a penalty for each Form W-2 filed late. File the entire Copy A page of Form W-2 with the entire page of Form W-3 at the following address:

Social Security Administration
Data Operations Center
Wilkes-Barre, PA 18769-0001

If you use "Certified Mail" to file, the zip code should be 18769-0002.

Amounts reported on related employment tax forms (for example Form W-2, Forms 941, 943, or 944) should agree with the amounts on Form W-3. If there are differences, you may be contacted by the IRS or SSA. You should retain a reconciliation for future reference.

Do not send undeliverable Forms W-2 to the Social Security Administration. Keep undeliverable Form W-2 (employee copies) for four years demonstrating that you tried to deliver the form W-2, but could not. However, if the undelivered W-2 can be produced electronically through April 15th of the fourth year after the year of issue, you do not need to keep undeliverable employee copies.

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E. IRS 1099 MISCELLANEOUS FORM REPORTING

Provisions of the Healthcare Reform Act of 2010, which required companies, organizations and governmental entities to file Form 1099-MISC for payments made in 2012 for materials, merchandise and supplies, in addition to payments for services, was repealed in 2011.

In general, Form 1099-MISC must be issued to all entities except corporations where payments for rents or services including parts and materials are \$600 or more. Attorneys and medical and healthcare providers are issued a Form 1099-MISC regardless of the type of entity (\$600 threshold still applies). The Form 1099-MISC must be filed with the IRS by February 29, 2012, (April 2, 2012 if filing electronically) along with a 1096 transmittal form. The recipient's copy must be postmarked by February 29, 2012.

For entities located in New York State, the Internal Revenue Service Center filing address is:

Department of the Treasury
Internal Revenue Service Center
Austin, TX 73301

F. FRINGE BENEFITS

1. Group Term Life Insurance

Under a group-term arrangement an employee may exclude from income the first \$50,000 of coverage. If the employee receives more than \$50,000 in group term life insurance, the following table should be used to determine the amount of taxable gross income:

Annual monthly cost per \$1,000 of coverage over \$50,000 (for 1 month)

Under age 25	\$0.05
25 through 29	0.06
30 through 34	0.08
35 through 39	0.09
40 through 44	0.10
45 through 49	0.15
50 through 54	0.23
55 through 59	0.43
60 through 64	0.66
65 through 69	1.27
70 and above	2.06

To calculate the total cost to include in the employee's wages, multiply the monthly cost by the number of full months' coverage at that cost.

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2. Automobile Expense

Employer-provided cars that are used exclusively for business purposes are excluded from an employee's income if the business use can be substantiated. The value of employer-provided cars used for personal purposes, such as commuting to and from work, is included in an employee's gross income.

Annual Lease Value

If an employer provides an employee with an automobile for personal use, the benefit provided may be calculated as the Annual Lease Value of the automobile. For an automobile that is provided to an employee for less than an entire year, the value of the benefit provided is either a pro-rated Annual Lease value or the Daily Lease value, whichever is applicable. The amount of the Annual Lease value or a pro-rated Annual Lease Value or the Daily Lease Value, as applicable, is included in the gross income of the employee.

The Annual Lease Value of a particular automobile is calculated as follows:

- Determine the fair market value of the automobile as of the first date on which the automobile is made available to any employee of the employer for personal use.
- Select the dollar range in column 1 of the Annual Lease Value Table (see Appendix A) corresponding to the fair market value of the automobile. The Annual Lease Value for each year of availability of the automobile is the corresponding amount in column 2 of the Table.

If substantiating records are maintained, the Annual Lease Value is then multiplied by the percentage of personal use. This amount is included in the employee's gross income. (See Appendix A for worksheet).

Commuting Rule

The fair market value of the use of employer-provided commuter vehicles is included in an employee's gross income and is subject to withholding and employment taxes. Under a special valuation rule, however, the commuting use of an employer-provided vehicle is valued at \$1.50 per employee for each way of the commute. Use of the commuting rule requires that the vehicle is used solely for business and commuting purposes. A written policy must exist stating that the employee is not allowed to use the vehicle for personal purposes other than commuting or de minimus personal use.

Control Employee

A control employee cannot use the commuting rules. A control employee is defined for government employees by the IRS as any elected official or any employee whose compensation equals or exceeds that of a Federal employee at Executive Level V. For 2011 that level was \$145,700. For 2012 the level remains at \$145,700. An employer can also choose to define a control employee as any employee who received more than \$110,000 (for 2011) or \$115,000 (for 2012) in pay the previous year. If the government provides a vehicle to an employee with

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compensation in excess of these amounts, the government must calculate the auto fringe benefit using the annual lease value.

3. Employee Benefits Accountable and Unaccountable Plans

Reimbursements

A reimbursement or other expense allowance arrangement is a system or plan that an employer uses to pay, substantiate, and recover expenses, advances, reimbursements, and amounts charged to the employer for employee business expenses.

Reimbursement for the business use of a personal car by an employee can be based on the actual operating expenses of using a car or the standard mileage rate determined by the IRS.

Non Accountable Plan

The amount paid to an employee for travel and other necessary expenses of your business is treated as supplemental wages and is subject to income tax withholding, FICA & FUTA if the following conditions exist:

- Your employee is not required to or does not substantiate timely those expenses to you with receipts or other documentation.
- You advance an amount to your employee for business expenses and your employee does not return timely any amounts not used.
- You advance or pay an amount to your employee without regard for anticipated or incurred business expenses.

Accountable Plans

To be an accountable plan, the employer's reimbursement or allowance arrangement must require the employee to meet all three of the following:

- There must be a business connection for the expenses – this is satisfied if the expenses have been paid or incurred in connection with the performance of services as an employee.
- The employee must adequately account to the employer for these expenses within a reasonable period of time - this is satisfied if enough information is submitted to the employer to enable the employer to identify the specific nature of each expense and conclude that the expense was attributable to the employee's business activities.
- The employee must return any excess reimbursement or allowance within a reasonable period of time.

If the employee meets these three rules for accountable plans, the employer should not include any reimbursements in gross income of the employee.

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Per Diem Allowance

If the employee is reimbursed by a per diem allowance under an accountable plan and the per diem allowance is less than or equal to the federal rate, the allowance is not to be included in the employee's gross income. If the per diem allowance is more than the federal rate, the amount in excess is included in gross income of the employee. (See Appendix F for Maximum Federal Per Diem Rates).

Cell Phones

On September 19, 2011, the IRS issued Notice 2011-72 *Tax Treatment of Employer-Provided Cell Phones*, to clarify changes to the treatment of employer-provided cell phones. Previously, the personal use by an employee of an employer-provided cell phone was taxable income. If the cell phone was used exclusively for business use, no income was to be reported. Since cell phones were included in the definition of listed property per IRC Section 280F(d)4, in order to exclude the business use from income, substantiating records had to be maintained. However, the Small Business Jobs Act of 2010 removed cell phones from the definition of listed property, and as such, substantiation requirements no longer apply to cell phones, for all taxable years beginning after December 31, 2009.

Also beginning after December 31, 2009, the value of the business use of an employer-provided cell phone will be considered a working condition benefit, if the cell phone was provided primarily for non-compensatory business reasons, and therefore, excludable from the gross income of the employee. Non-compensatory business reasons include:

- The need to contact the employee at all times for work-related emergencies,
- Requirement that the employee be available to speak with clients at times when they are away from the office,
- The need to speak with clients in another time zone at times outside of the employee's normal workday.

If the cell phone is provided as a way to attract new employees, or to increase compensation to employees for example, you cannot exclude the value of the cell phone from gross wages.

If you meet the non-compensatory business reason for providing the cell phone, any personal use of the cell phone will be deemed a De Minimis (minimal) fringe benefit, also excludable from the income of the employee.

IX. IRS MILEAGE RATES

The amounts for the various deductible costs for use of a car will be effective January 1, 2012 and are as follows:

- The standard mileage rate for the cost of operating a car remains at 55.5 cents per mile for all business miles driven.
- The standard mileage rate for the use of a car when giving services to a charitable organization remains at 14 cents per mile.

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- The standard mileage rate for use of your car for medical reasons is 23 cents per mile. The previous rate was 19 cents per mile for January 2011 through June of 2011 and 23.5 cents for July 2011 through December of 2011.
- The standard mileage rate to use when computing deductible moving expenses is 23 cents per mile. The previous rate was 19 cents per mile for January 2011 through June of 2011 and 23.5 cents for July 2011 through December of 2011.

X. RETIREMENT CONTRIBUTION PLANS UPDATE

New Contribution Rates

The 2011-2012 Teachers' Retirement Systems (TRS) rate is 11.11%. The 2012-2013 TRS rate is estimated to be between 11.5% – 12.5% of payroll.

The 2011-2012 regular pension contribution rate for Employees' Retirement Systems (ERS) pertaining to school districts is 21.3% for Tier 1, 19.6% for Tier 2, 15.7% for Tier 3 and Tier 4 and 12.7% for Tier 5. The 2012-2013 ERS regular contribution rate is 25.2% for Tier 1, 23.1% for Tier 2, 18.5% for Tier 3 and Tier 4, and 15% for Tier 5.

The Police and Fire Retirement System regular pension contribution rates for 2011-2012 for Tier 1 is 10.4%-21.8%, Tier 2 9%-21.2%, Tier 3 9%-20.4%, and Tier 5 is 5.5%-20.3%. For 2012-2013, regular pension contribution rates for Tier 1 is 12.8%-26.1%, Tier 2 is 11.2%-25.4%, Tier 3 11.2%-24.2% and Tier 5 7.0%-20.5%. Each percentage in the tier is determined based upon the various retirement plans related to that tier.

Rates for other municipalities with various plans for the 2011 and 2012 year can be found at:

http://www.osc.state.ny.us/retire/word_and_pdf_documents/employers_files/2012_final_rates/2012_ers_final_rates.pdf

Governor Cuomo has announced a proposal for a Tier 6, the details of which are not available yet but should be forthcoming.

Employer Contribution Stabilization Program

Chapter 57 of the Laws of 2010, enacted in August 2010, established the Employer Contribution Stabilization Program (the "Program"). This Program allows local governments who choose to participate in the Program, to amortize a portion of their annual required contributions to the New York State and Local Retirement System (NYSLRS). The maximum amount eligible for amortization is the difference between the normal contribution amount, and the graded contribution amount which is based on a graded rate, as determined by the NYSLRS actuary. Key highlights of the Program include the following:

- Program began with the required contribution due February 2011.
- The amortized portion of the contribution is payable in ten equal installments over a ten year period.
- Participants can prepay the amortized portion at any point, without penalty.

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- Once enrolled in the program, participants do not have to amortize each years' contributions, a decision is made each year on whether or not to amortize a portion for that years contribution.
- Participants do not have to amortize the maximum allowable amount.
- If you chose to not enroll, you can elect to enroll in any year. An election form will be sent each year with the annual invoice.
- Once you chose to opt in for any given year, you can't opt out for that year, but can prepay at any time.
- Interest will be charged on the unpaid amortized amount, at a rate established each year, for that years contribution amount, and the rate will apply for each of the ten years.

For more information on this program, please see the NYSLRS website at www.osc.state.ny.us/retire/employers. For questions on the program, contact NYSLRS at RTEmpser@osc.state.ny.us or call (518)-474-7573.

XI. GASB UPDATE

GASB Statement No. 54, Fund Balance Reporting and Government Fund Type Definitions

GASB issued Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, which is effective for financial statements for periods beginning after June 15, 2010. This Statement aims to enhance the usefulness of fund balance information, which will be accomplished by defining clearer classifications of fund balance and by further simplifying the current governmental fund type definitions.

Statement No. 54 also distinguishes between fund balances that are considered nonspendable (such as fund balance that is specifically associated with inventory) and fund balances that are classified based on the level of restrictions placed on the fund balance. The restrictions on these fund balances dictates the specific purposes that authorizes the amount of fund balance that can be spent.

Statement No. 54 defines the following fund balances that are now going to be reported:

- **Nonspendable** – amounts that are inherently nonspendable in the current period either because of their form or because they must be maintained intact.
- **Restricted** – restricted fund balances are specifically restricted by parties external to the organization, constitutional provision or enabling legislation;
- **Committed** – committed amounts are restricted by formal action of the highest level of decision-making authority;
- **Assigned** – assigned fund balances represent funds that are specified for a specific purpose and that do not meet criteria that would result in classifying the fund balances as either restricted or committed; and
- **Unassigned** – unassigned fund balances have no restrictions placed on their spending, and are reported solely in the government's general fund.

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Fund Balance Limitations

School districts will need to apply Statement No. 54's new fund balance classifications when calculating the 4% limitation of the next year's budgetary appropriations. NYS Real Property Tax Law Section 1318 restricts the unreserved, undesignated fund balance of the general fund to an amount not greater than 4% of the District's budget for the ensuing fiscal year. However, applying Statement No. 54, the limitation would be applied to unrestricted fund balance minus appropriated fund balance and encumbrances included in committed and assigned fund balance.

Counties, Cities, Towns, Villages and Fire Districts will also need to apply Statement No. 54's new fund balance classification when carrying over a reasonable amount of unappropriated unreserved fund balance. Chapter 528 of the Laws of 2000 provides local governments with the authority to carry over a reasonable amount of unappropriated unreserved fund balance from one year to the next year. However, applying Statement No. 54, the reasonable amount carried over would be applied to unrestricted fund balance.

Encumbrances

The new Statement is changing the way encumbrances are reported. Encumbrances will be reported as either restricted or committed if the resources for those encumbrances have been already restricted or committed. Encumbrances resulting from issuing purchase orders as a result of normal purchasing activities approved by appropriate officials would be classified as assigned. Whether the encumbrance is classified as restricted, committed, or assigned it should not be displayed separately within those categories. If a government has significant encumbrances at year-end, it should be disclosed in the notes to the financial statements, along with other significant commitments.

Fund Type Definitions

Statement No. 54 further classifies the fund type definitions of the general fund, special revenue fund, capital projects fund, and debt service fund. The changes for the general fund, capital projects fund and debt service fund reflect the new fund balance classifications. As for the special revenue fund, the Statement included additional guidance on when resources should be reported in this fund.

Fund Balance Policy

It is recommended that state and local governments establish a fund balance policy. This policy should include, but is not limited to, the new classifications of fund balance, the specific steps required for the process of committing funds, the order of expenditure of funds by classification as they become available, the individuals authorized to assign amounts for specific purposes and the appropriate level of unrestricted fund balance that should be maintained in the general fund. In addition, disclosure of these accounting policies in the notes to the state and local government's financial statements is also required under Statement No. 54.

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Footnote Disclosures

Some of the disclosures state and local governments will be required to disclose in the notes to the financial statements are as follows:

- The highest level of decision-making authority and action that lead to committed and assigned fund balance.
- Policy regarding order of spending for restricted, committed, assigned and unassigned fund balance.
- Encumbrances, if significant, are reported in conjunction with other disclosures of significant commitments.
- Description of any formally adopted minimum fund balance policy.

The Office of the State Comptroller (OSC) has published guidance explaining the new reporting requirements for fund balance and special revenue funds. The guidance outlines the effects on the Annual Update Document (AUD) and the ST-3. However, changes will not be required in local government budgeting. A copy of the guidance can be located at: www.osc.state.ny.us

GASB Statement No. 57, *OPEB Measurements by Agent Employers and Agent Multiple-Employer Plans*

In December 2009, GASB issued Statement No. 57, *OPEB Measurements by Agent Employers and Agent Multiple-Employer Plans*. The Statement amends GASB Statement No. 45, *Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions*, by permitting state and local governments that participate in multiple-employer plans with less than 100 total plan members to use the alternative measurement method, as discussed in GASB Statement No. 45. The alternative measurement method is a less complex and potentially less expensive measurement basis than obtaining a full actuarial valuation. The Statement also amends GASB Statement No. 43, *Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans* by allowing for defined benefit OPEB plans to utilize the results of the alternative measurement methods used by the individual-employer plans that participate in the defined benefit OPEB plan. Additionally, the Statement clarifies that when actuarially determined OPEB measures are reported by an agent multiple-employer OPEB plan and its participating employers, those measures should be determined as of a common date and at a minimum frequency.

Alternative measurement method compliance is effective immediately; however, the frequency and timing measurements are effective for periods beginning after June 15, 2011.

GASB Statement No. 59, *Financial Instruments Omnibus*

On June 24, 2010, GASB issued Statement No. 59, *Financial Instruments Omnibus*. The Statement updates and improves existing financial reporting and disclosure requirements of certain financial instruments and external investment pools. Issues addressed in the Statement include:

- Improving the consistency of investment measurements reported by pension and post-employment-benefit plans by applying the reporting provisions of GASB Statement No. 31,

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“Accounting and Financial Reporting for Certain Investments and for External Investment Pools,” for interest-earning investment contracts to unallocated insurance contracts;

- Clarifying GASB Statement No. 31 to indicate that a SEC Rule 2a7-like pool is an external investment pool that operates in conformity with SEC Rule 2a7 as described in the *Investment Company Act of 1940*, as amended;
- Limiting interest rate risk disclosures for investments by amending GASB Statement No. 40, *“Deposit and Investment Risk Disclosures”* to require such information be disclosed only for debt investment pools that do not meet the requirements to be reported as a 2a7-like pool; and
- Amending GASB Statement No. 53, *“Accounting and Financial Reporting for Derivative Instruments,”* to clarify which financial instruments are within the scope of that pronouncement.

The Statement is effective for reporting periods beginning after June 15, 2010, with earlier application encouraged. The GASB’s news release announcing the issuance of the new standard can be viewed at: http://www.gasb.org/cs/ContentServer?c=Pronouncement_C&pagename=GASB/Pronouncement_C/GASBSummaryPage&cid=1176157095169

GASB Statement No. 60, Accounting and Financial Reporting for Service Concession Arrangements

In November 2010, GASB issued Statement No. 60 *Accounting and Financial Reporting for Service Concession Arrangement*, effective for periods beginning after December 15, 2011. The Statement provides guidance related to service concession arrangements, which are a type of public-private or public-public partnership. As used in this Statement, a service concession arrangement is an arrangement between a transferor (government) and an operator (governmental or nongovernmental entity) in which the transferor conveys to an operator the right and related obligation to provide services through the use of infrastructure or other public asset (facility) in exchange for significant consideration.

The Statement applies only to those arrangements in which the transferor has control over the facility (determined by specific criteria). Guidance is provided to properly record the service concession arrangement and also for governments that are operators in a service concession arrangement.

GASB Statement No. 61, The Financial Reporting Entity: Omnibus-an amendment of GASB Statement No. 14 and No. 34

In November 2010, GASB issued Statement No. 61, *The Financial Reporting Entity: Omnibus-an amendment of GASB Statement No. 14 and No. 34*. The Statement amends Statement No. 14, *The Financial Reporting Entity* and GASB Statement No. 34, *Basic Financial Statements-and Management’s Discussion and Analysis-for State and Local Governments*. Statement No. 61 modifies criteria for including component units. The Statement is effective for reporting periods beginning after June 15, 2012.

GASB Statement No. 62, Codification of Accounting and Financial Reporting Guidance Contained in Pre-November 30, 1989 FASB and AICPA Pronouncements

In December 2010, GASB issued Statement No. 62, *Codification of Accounting and Financial Reporting Guidance Contained in Pre-November 30, 1989 FASB and AICPA Pronouncements*, which is effective for periods beginning after December 15, 2011. The Statement integrates pronouncements of

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FASB Statements and Interpretations, Accounting Principles Board Opinions, and AICPA guidance issued on or before November 30, 1989 into a GASB pronouncement that does not conflict or contradict current GASB pronouncements. The objective of the Statement is to centralize all guidance into a GASB pronouncement for all generally accepted accounting principles for state and local governments into one source. Information included in the Statement relates to items that are not specifically addressed in a previously issued GASB Statement such as accounting for leases, prior period adjustments, debt restructuring, and inventory.

GASB Statement No. 63, *Financial Reporting of Deferred Outflows of Resources, Deferred Inflows of Resources and Net Position*

GASB issued Statement No. 63, *Financial Reporting of Deferred Outflows of Resources, Deferred Inflows of Resources and Net Position*, effective for periods beginning after December 15, 2011. The objective of this Statement is to provide financial reporting guidance and to improve the presentation of deferred outflows of resources and deferred inflows of resources.

The Statement provides for an authoritative GASB pronouncement that addresses to separately report deferred outflows of resources and deferred inflows of resources. Previous classifications of assets, such as prepaid costs related to refunding of debt, would now be recognized as deferred outflows of resources, and previous classifications of liabilities, such as debt issuance costs, would now be recognized as deferred inflows of resources. The Statement also renames the residual measurement (previously net assets) as net position and the “Statement of Net Assets” to the “Statement of Net Position”.

GASB Statement No. 64, *Derivative Instruments: Application of Hedge Accounting Termination Provisions-an amendment of GASB Statement No. 53*

This Statement provides guidance for governments that have entered into swap agreements and establishes criteria for when hedge accounting should be applied. This Statement is effective for periods beginning after June 15, 2011.

GASB Exposure Draft – *Economic Condition Reporting: Financial Projections*

On December 6, 2011, GASB proposed that state and local governments present five-year projections of cash inflows, cash outflows, and financial obligations that would be presented as required supplementary information following the notes to the financial statements.

The pronouncement’s objective is to assist users in assessing a government’s economic condition through projected cash inflows and outflows, to include projected payments related to debt service, pension, other postemployment benefits, and long-term contracts.

GASB Exposure Draft – *Accounting and Financial Reporting For Pensions*

In June 2011, GASB issued Exposure Drafts addressing the financial reporting and accounting for pension plans. The Exposure Drafts would make changes to:

- Existing pension standards;
- Required supplementary information through comparable statements;

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- Liability recognition and outflow of resources.

The most significant item resulting from these Exposure Drafts is the recording of a net pension liability on the government-wide financial statements. The TRS, ERS, and PFRS systems would be required to provide the net pension liability to the state and local governments to properly record the net pension liability on the government-wide financial statements. Final standards are to be provided in the spring of 2012.

Further detail regarding the GASB Statements and proposals can be viewed at <http://gasb.org>.

XII. NOT-FOR-PROFIT UPDATE

Changes Proposed for Nonprofit Financial Reporting

In the fall of 2011, the Financial Accounting Standards Board's (FASB) Not-for-Profit Advisory Committee recommended changes in the accounting rules for nonprofit organizations that would require more detailed information about their finances.

These recommendations include:

1. Developing a framework for commentary and analysis about an organization's financial health and operations, similar to the "Management Discussion and Analysis" provided by state and local governments in their annual reports, to help bring context to their financial reporting.
2. Revisiting the current net asset classifications, deciding how they may be redefined, in order to improve how liquidity is depicted on a not-for-profit's statement of financial position.
3. Improving how information is presented on the statement of activities and the statement of cash flows
4. Streamlining the existing not-for-profit disclosures to improve their relevance and clarity

The FASB is expected to commence deliberations in early 2012.

Small Employers May Be Entitled to a Health Care Tax Credit

Small employers, including not-for-profits may be entitled to the Small Business Health Care Tax Credit, if they meet the following conditions:

1. Fewer than 25 full-time equivalent employees
2. Average wages paid of less than \$50,000 per year
3. Pay at least half of employee health insurance premiums

For tax years 2010 through 2013, the maximum credit is 25 percent for small tax-exempt employers. An enhanced version of the credit will be effective January 1, 2014. This credit is refundable for tax-exempt employers, so even if an organization has no taxable income, it may be eligible to receive the credit as a refund as long as the amount does not exceed the organization's income tax withholding and Medicare tax liability.

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Changes in State Contract Funding

On January 18, 2012, Governor Cuomo issued an Executive Order that nonprofits and contractors receiving state money will have to spend most of the state money they received on services to their clients and limits how much of that money can be used to fund executive salaries.

Under this Executive Order, providers contracting with the State to provide various services, primarily but not limited to health related services, will be required to do the following:

- Spend no less than 75% of state funds received on direct care or services. This percentage will gradually rise to 85% by April 2015.
- Spend no more than \$199,000 on individual executive salaries using state funds, although other funds may be used to increase those salaries.

This Order becomes effective within 90 days.

XIII. SINGLE AUDIT UPDATE

Based on a review of common audit findings of OMB Circular A-133 audits and the compliance requirements of OMB's Circular A-133 Compliance Supplement, here are steps you can take while managing the federal grants that will be covered in your organization's OMB Circular A-133 audit:

Federal American Recovery and Reinvestment Act Funds (ARRA)

American Recovery and Reinvestment Act requires that recipients of funds made available under that Act separately account for, and report on, how those funds are spent. A new CFDA number has been assigned to each grant to facilitate separate accounting for the funds. Auditees must separately identify Recovery Act expenditures on the Schedule of Expenditures of Federal Awards (SEFA). They must maintain internal controls to reasonably ensure compliance with Recovery Act requirements which includes expending these funds as quickly and prudently as possible. Accurate documentation of all ARRA expenditures to ensure complete, reliable and accurate reporting is required by recipients. Reports are to be submitted no later than 10 days after each calendar quarter.

In addition, NYSED has stated that most ARRA grant programs are required to submit a Final Expenditure for a Federal or State Project (FS-10F) long form. Final expenditure reports for the Stabilization funds are filed directly on the NYSED business portal. The Agency has also stated that it plans to perform onsite reviews of information reported on Request for Funds for a Federal or State Project (FS-25) forms at selected Local Educational Agencies (LEAs). Auditees should be prepared to support this information in the event of being selected for review.

Interest on Cash Advances

As stated in the Department of Education's General Administrative Regulations, Local Educational Agencies (LEAs) should have financial procedures in place to identify interest earned on federal cash advances (FS-25). Interest earned in excess of \$100 annually should be remitted at least quarterly to the federal agency.

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Property Records

Ensure that all of the required data elements contained in the property management standards of OMB Circulars A-102 and A-110 are included in your property records, including description, serial number or other ID, title information, acquisition date, cost, percent of federal participation, location, use and condition, and ultimate disposition.

Equipment Inventory

Inventory all of your equipment acquired with federal funds at least once every two years and reconcile any discrepancies with the property records. The inventory should include location of equipment, custody of equipment and security of equipment.

Noncompetitive Procurement

If you award any contracts for goods or services on a sole source basis, prepare a written justification as to why you proceeded with the transaction (emergency, no responses to solicitation, etc.).

Timely Accurate Financial and Performance Reports

Late reports are often an indicator that there are weaknesses in the systems grant recipients use to manage their awards; even more importantly, awarding agencies often have little to go on as to whether funds are being managed well and inaccurate or late reports are a “red flag” that invites greater scrutiny.

Time and Effort Reports

Salaries and wages are often a significant portion of the expenditures in a grant and one of the few areas where the federal government identifies the features of the documentation you should maintain to support your charges. Create the habit within your workforce of completing after-the fact, timely, credible documentation that represents a reasonable estimate of the time worked on each grant project.

If federal funds are used for salaries, “time and effort records” must be kept.

You must demonstrate that all employees paid with federal funds actually worked on the specific federal program.

If an employee works on a single cost objective the following is required:

- Semi-Annual Certification, at a minimum
- Signed by employee or supervisor, having firsthand knowledge of work performed by employee
- Example: “I hereby certify that for the period January 1, 2012 through June 30, 2012 one-hundred percent (100%) of my time and effort was spent on the Reading Recovery Program.”

If an employee works on multiple activities or cost objectives the following is required:

- Personnel Activity Reports (PARS) or equivalent documentation which should be:
 - After the fact.

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- Account for total activity.
- Signed by employee.
- Prepared at least monthly and coincide with one or more pay periods.

Time increments reported on PARs should be sufficient to recognize:

- Number of different activities performed
- The dynamics of these responsibilities

Equivalent Documentation

- Instructional staff may use lesson plans to confirm that their written schedules were followed, in lieu of PARs, if:
 - After-the-fact notes are made on those plans to indicate the completion of each scheduled activity.
 - The lesson plans account for the total time the employee is compensated.
 - The lesson plans are prepared at least monthly and coincide with one or more pay periods.
 - The completed lesson plans are signed by the employee.

Fringe benefits are allowable if you perform the following procedures: (1) established written leave policies; (2) cost is equitably allocated to all related activities; and (3) accounting basis is consistently followed.

The current and previous years' compliance supplement as well as other circulars is available on the Office of Management and Budget's website at <http://www.whitehouse.gov/omb/circulars/default>.

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XIV. 1040 CONSIDERATIONS

The following are some highlights of what is new for 2011 and may impact the filing of your income tax returns:

Item

Highlight

Mid-year mileage allowance increase

The IRS standard mileage rate was higher for the last six months of 2011 than for the first six months. The business mileage rate was 55.5 cents a mile for miles driven from July 1, 2011 through December 31, 2011 and 51 cents a mile for the first six months of the year. The rate for medical expense and moving expense deductions was 19 cents a mile for the first six months of the year and 23.5 cents a mile for the last six months. For charitable volunteers, the mileage rate of 14 cents a mile does not change; it is fixed by statute.

Lower Social Security rate and self-employment tax. Deduction for self-employment tax

The 2011 tax rate for the employee share of Social Security is 4.2%, 2% less than for 2010, making the maximum 2011 employee Social Security liability \$4,485.60, 4.2% of the first \$106,800 of wages.

For 2011, the self employment tax of 13.3% consists of the following two rates: 10.4% for Social Security (4.2% employee share and 6.2% employer share) and 2.9% for Medicare. After multiplying the net earnings by .9235, the combined 13.3% rate applies to a taxable earnings base of \$106,800 or less; the 2.9% rate applies to all taxable earnings exceeding \$106,800.

In prior years, 50% of the self employment tax was the amount above-the-line deduction that could be claimed on Form 1040, but for 2011, because of the 2% reduction in the self-employment tax rate, a special computation applies, and the deduction is larger.

Higher standard deductions

The standard deduction is \$11,600 for married persons filing jointly or qualifying widow(er)s, \$8,500 for heads of households, or \$5,800 for single tax payers or married filing separately. The additional standard deduction for being 65 or older or blind is \$1,450 if single or head of household (\$2,900 if 65 and blind). If married filing jointly, the additional standard deduction is \$1,150 if one spouse is 65 or older or blind, \$2,300 if both spouses are at least 65 (or one is 65 and blind).

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Item

Highlight

Tax rate brackets and preferential rates for capital gain/qualified dividends

Tax rates on ordinary income are extended to 2011 and 2012: 10%, 15%, 25%, 28%, 33% and 35%. The 5% and 15% rates on long-term capital gains and qualified dividends also are extended through 2012.

New Form 8949 for reporting sales of capital assets and revised Schedule D. Broker reporting of basis on Form 1099-B

Form 8949 is a new form for reporting 2011 sales (and other dispositions) of capital assets that is attached to Schedule D. After entering short-term transactions in Part 1 of Form 8949 and long-term transactions in Part II, the total sales price and basis amounts are transferred to Schedule D, where net gain or loss is calculated.

If you acquired stock in 2011 and sold it before the end of the year, the broker must report your cost basis for the securities in Box 3 of Form 1099-B. In Parts I and II of Form 8949, you must enter a code to indicate whether your basis for sold securities was reported to you by your broker in Box 3 of Form 1099-B.

Bonus depreciation and first year expensing for qualified business investments

Bonus first year depreciation at a 100% rate is allowed for qualified property purchased new and placed in service in 2011. If bonus depreciation is not available, first year expensing is allowed for qualifying property up to a limit of \$500,000, of which \$250,000 may be applied to the combined cost of qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property. If the total cost of qualifying property placed in service during 2011 is over \$2 million, the \$500,000 expensing limit is reduced dollar for dollar by the cost of qualifying property exceeding \$2 million.

Vehicle depreciation limit

If a new car was placed in service in 2011 and used over 50% for business, bonus depreciation allows an \$11,060 first-year depreciation limit. The limit is \$3,060 if bonus depreciation is not allowed. For a light truck and van, the limit is \$11,260 if bonus depreciation applies and \$3,260 without the bonus. The limits are reduced for personal use.

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Item

Highlight

Alternative minimum tax (AMT) exemption for 2011

The AMT exemption for 2011 is \$74,450 for married persons filing jointly and qualifying widow(er)s, \$48,450 for single persons and heads of households, \$37,225 for married persons filing separately.

Estate tax reinstated with stepped up basis. Special rule for estates of 2010 decedents

Under the reinstated estate tax for estates of those dying in 2011 and 2012, up to \$5 million of assets (this may be increased for 2012 by an inflation adjustment) are exempted from tax, and the heirs of individuals dying after 2010 receive a stepped up basis for inherited property (generally equal to fair market value at death). Executors of estates of individuals dying in 2010 had an option: (1) applying the 2011-2012 estate tax rules including the full step up basis for heirs, or (2) avoiding estate tax entirely, regardless of the size of the estate, but applying modified basis rules for their heirs under which a step-up basis would be limited. The election to opt out of estate tax and apply the modified carryover basis rules has to be made on Form 8939 by January 17, 2012.

Revised home energy credit

For 2011, the credit for energy efficient home energy improvements such as storm windows, insulation, furnaces, and water heaters is reduced to 10%, with an overall limit of \$500 that is reduced by prior-year credits, plus specific property limits such as \$200 for exterior windows and \$150 for a furnace.

First-time homebuyer credit

For 2011, the credit for a home purchase by a first-time homebuyer or long-time resident is allowed only to members of the U.S. uniformed services or Foreign Service, or employees of the intelligence community who bought their home before May 1, 2011 (before July 1, 2011 if in contract before May 1, 2011) and who were on qualified official extended duty outside the United States for at least 90 days between January 1, 2009 and April 30, 2010. Credits from 2008 must be repaid under the 15-year schedule that began in 2010. Unless an exception applies, credits from 2009-2010 have to be repaid in full on a 2011 return if the home for which the credit was claimed was sold in 2011 or the home was no longer used as a residence.

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<u>Item</u>	<u>Highlight</u>
IRA and Roth IRA contributions Phaseout	<p>For 2011, the contribution limit for traditional and Roth IRAs remains \$5,000, or \$6,000 for those age 50 or older.</p> <p>The deduction limit for 2011 contributions to a traditional IRA is phased out for active plan participants with modified AGI (MAGI) of over \$56,000 and under \$66,000 for a single person or head of household, or over \$90,000 and under \$110,000 for married persons filing jointly. The phaseout range is MAGI of over \$169,000 and under \$179,000 for a spouse who is not an active plan participant and files jointly with a spouse who is an active plan participant.</p> <p>The 2011 Roth IRA contribution limit is phased out for a single person or head of household with MAGI over \$107,000 and under \$122,000, and for married persons filing jointly with MAGI over \$169,000 and under \$179,000.</p>
Reporting 50% of 2010 conversion to Roth IRA	<p>If you converted a traditional IRA to a Roth IRA in 2010, and you chose on the 2010 Form 8606 to use the special two-year deferral rule for 2010 conversions (rather than reporting the entire taxable conversion amount as 2010 income) you must report half of the 2010 conversion income as a taxable IRA distribution for 2011. The other half will be reported as a 2012 distribution.</p>
Eligibility for saver's credit	<p>The adjusted gross income brackets for the 10%, 20%, and 50% credits are increased for 2011. The AGI limit for claiming a 2011 saver's credit is \$28,250 for single taxpayers, \$42,375 for heads of households, and \$56,500 for married persons filing jointly.</p>
Two-year limit for claiming equitable innocent spouse relief eliminated	<p>In response to opposition from Congress and the National Taxpayer Advocate, the IRS withdrew its requirement that a request for equitable relief be made within two years of the first IRS collection activity.</p>

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<u>Item</u>	<u>Highlight</u>
Late election to aggregate real estate activities	The IRS will allow qualifying real estate professionals to make a late election to aggregate rental real estate activities on an amended return if there was reasonable cause for not making the election on the original return and other conditions are met.
Partial exchange of commercial annuity	New IRS tests apply for determining whether a partial transfer of a commercial annuity on or after October 24, 2011 is a tax-free exchange.
Restriction on health FSA reimbursement of over-the-counter medications	Starting in 2011, a health flexible spending arrangement cannot make a tax-free reimbursement of an over-the-counter medication other than insulin unless a physician has provided a prescription for it.
Higher deduction limits for long-term care premiums	The maximum amount of age-based long term care premiums that can be included as deductible medical expenses for 2011 (subject to the 7.5% of AGI floor) is \$340 if you are age 40 or younger at the end of 2011; \$640 for those age 41 through 50; \$1,270 for those age 51 through 60; \$3,390 for those age 61 through 70; and \$4,240 for those over age 70.
Hybrid vehicle credit no longer available	The credit for hybrid, advanced lean burn technology, and alternative fuel vehicles expired for vehicles purchased after 2010.
MWP credit not allowed	The MakingWorkPay credit is not allowed on 2011 returns; it expired at the end of 2010.
Foreign earned income and housing exclusions	The maximum foreign earned income exclusion for 2011 is \$92,900. The maximum housing exclusion is generally \$13,006, but the IRS may increase the exclusion for high cost localities.
High-low reimbursement method may be discontinued	The IRS announced its intention to discontinue the “high-low” method of reimbursing employees for travel expenses but the decision may not be final.

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<u>Item</u>	<u>Highlight</u>
Additional child tax credit	The child tax credit is refundable for 2011 to the extent of 15% of earned income in excess of \$3,000, the same as for 2010.
Annual exclusion for gifts	For gift tax purposes, the per-donee exclusion for gifts of present interests in 2011 is \$13,000, the same as for 2010.
Advanced earned income credit not allowed	2010 was the last year for which advance payments of the earned income credit can be made.

Feel free to contact our Suffolk County office at (631) 234-4444 or you can e-mail us at mvanduyne@rsabrams.com if you have any questions. You can also visit our website at www.rsabrams.com for updated information and to obtain additional copies of our annual New Developments, Year End Update and 1040 Considerations. We suggest you share this update with your Board.

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**EMPLOYER'S WORKSHEET TO CALCULATE EMPLOYEE'S
TAXABLE INCOME FOR EMPLOYER-PROVIDED
VEHICLE FOR CALENDAR YEAR _____.**

EMPLOYEE: _____

DESCRIPTION OF VEHICLE: _____

DATE VEHICLE FIRST MADE AVAILABLE TO ANY EMPLOYEE: _____

DATE VEHICLE FIRST MADE AVAILABLE TO THIS EMPLOYEE: _____

Method – Annual Lease Value Method

Fair market value of vehicle (to be redetermined
at the beginning of the fifth year and every
four years thereafter) \$ _____

Annual lease value, per attached chart _____

Enter number of days during the year that the
vehicle was available \times _____

/ _____ 365

Prorated annual lease value = _____

Personal use % (personal/total miles, per statement
from employee and substantiated) \times _____ %

Personal annual lease value _____

If fuel is provided by employer, enter personal miles
_____ \times 0.055 + _____

Personal use taxable income \$ _____

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ANNUAL LEASE VALUE TABLE

Automobile Fair Market Value	Annual Lease Value	Automobile Fair Market Value	Annual Lease Value
\$ 0 - 999	600	\$ 22,000 - 22,999	6,100
1,000 - 1,999	850	23,000 - 23,999	6,350
2,000 - 2,999	1,100	24,000 - 24,999	6,600
3,000 - 3,999	1,350	25,000 - 25,999	6,850
4,000 - 4,999	1,600	26,000 - 27,999	7,250
5,000 - 5,999	1,850	28,000 - 29,999	7,750
6,000 - 6,999	2,100	30,000 - 31,999	8,250
7,000 - 7,999	2,350	32,000 - 33,999	8,750
8,000 - 8,999	2,600	34,000 - 35,999	9,250
9,000 - 9,999	2,850	36,000 - 37,999	9,750
10,000 - 10,999	3,100	38,000 - 39,999	10,250
11,000 - 11,999	3,350	40,000 - 41,999	10,750
12,000 - 12,999	3,600	42,000 - 43,999	11,250
13,000 - 13,999	3,850	44,000 - 45,999	11,750
14,000 - 14,999	4,100	46,000 - 47,999	12,250
15,000 - 15,999	4,350	48,000 - 49,999	12,750
16,000 - 16,999	4,600	50,000 - 51,999	13,250
17,000 - 17,999	4,850	52,000 - 53,999	13,750
18,000 - 18,999	5,100	54,000 - 55,999	14,250
19,000 - 19,999	5,350	56,000 - 57,999	14,750
20,000 - 20,999	5,600	58,000 - 59,999	15,250
21,000 - 21,999	5,850	-	

For vehicles having a fair market value in excess of \$59,999, the Annual Lease Value is equal to: (.25 x automobile fair market value) + \$500.

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**403(B) SALARY REDUCTION CONTRIBUTION ELIGIBILITY
NOTIFICATION**

I have been notified that I am eligible to participate in the Tax Exempt Employer 403(b) Salary Reduction Program. I have received a copy of the Summary Plan Description and Salary Reduction Agreement. Should I choose to participate I will complete a Salary Reduction Agreement form and return it to _____.

Name: _____

Date of Hire: _____

Signature: _____

Date: _____

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Worksheet 1. **Maximum Amount Contributable (MAC)**

Note. Use this worksheet to figure your MAC.

Part I. Limit on Annual Additions		
1	Enter your includible compensation for your most recent year of service	1 _____
2	Maximum · For 2011, enter \$49,000 · For 2012, enter \$50,000	2 _____
3	Enter the lesser of line 1 or line 2. This is your limit on annual additions Caution: If you had only nonelective contributions, skip Part II and enter the amount from line 3 on line 18.	3 _____
Part II. Limit on Elective Deferrals		
4	Maximum contribution · For 2011, enter \$16,500 · For 2012, enter \$17,000 Note. If you have at least 15 years of service with a qualifying organization, complete lines 5 through 17. If not, enter zero (-0-) on line 16 and go to line 17.	4 _____
5	Amount per year of service	5 \$5,000
6	Enter your years of service	6 _____
7	Multiply line 5 by line 6	7 _____
8	Enter the total of all elective deferrals for prior years made for you by qualifying organizations	8 _____
9	Subtract line 8 from line 7. If zero or less, enter zero (-0-)	9 _____
10	Maximum increase in limit for long service	10 \$15,000
11	Enter the total of additional pre-tax elective deferrals made in prior years under 15 year rule	11 _____
12	Enter the aggregate amount of all designated Roth contributions for prior years under the 15 year rule	12 _____
13	Add line 11 and line 12	13 _____
14	Subtract line 13 from line 10	14 _____
15	Maximum additional contributions	15 \$3,000
16	Enter the least of lines 9, 14, or 15. This is your increase in the limit for long service	16 _____
17	Add lines 4 and 16. This is your limit on elective deferrals	17 _____
Part III. Maximum Amount Contributable		
18	· If you had only nonelective contributions, enter the amount from line 3. This is your MAC. · If you had only elective deferrals, enter the lesser of lines 3 or 17. This is your MAC. · If you had both elective deferrals and nonelective contributions, enter the amount from line 3. This is your MAC. (Use the amount on line 17 to determine if you have excess elective deferrals as explained in chapter 7 of IRS Publication 571.)	18 _____

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Worksheet A. **Cost of Incidental Life Insurance**

Note. Use this worksheet to figure the cost of incidental life insurance included in your annuity contract.

This amount will be used to figure includible compensation for your most recent year of service.

1	Enter the value of the contract (amount payable upon your death)	1	_____
2	Enter the cash value in the contract at the end of the year	2	_____
3	Subtract line 2 from line 1. This is the value of your current life insurance protection	3	_____
4	Enter your age on your birthday nearest the beginning of the policy year	4	_____
5	Enter the 1-year term premium for \$1,000 of life insurance based on your age (From Appendix D-1)	5	_____
6	Divide line 3 by \$1,000	6	_____
7	Multiply line 6 by line 5. This is the cost of your incidental life insurance	7	_____

Worksheet B. **Includible Compensation for Your Most Recent Year of Service¹**

Note. Use this worksheet to figure includible compensation for your most recent year of service.

1	Enter your includible wages from the employer maintaining your 403(b) account for your most recent year of service	1	_____
2	Enter elective deferrals excluded from your gross income for your most recent year of service ²	2	_____
3	Enter amounts contributed or deferred by your employer under a cafeteria plan for your most recent year of service	3	_____
4	Enter amounts contributed or deferred by your employer to your 457 account (a nonqualified plan of a state or local government or of a tax-exempt organization) for your most recent year of service	4	_____
5	Enter pre-tax contributions (employer's contributions made on your behalf according to an election) to a qualified transportation fringe benefit plan you received for your most recent year of service	5	_____
6	Enter your foreign earned income exclusion for your most recent year of service	6	_____
7	Add lines 1, 2, 3, 4, 5, and 6	7	_____
8	Enter the cost of incidental life insurance that is part of your annuity contract for your most recent year of service	8	_____
9	Enter compensation that was both : - Earned during your most recent year of service, and - Earned while your employer was not qualified to maintain a 403(b) plan	9	_____
10	Add lines 8 and 9	10	_____
11	Subtract line 10 from line 7. This is your includible compensation for your most recent year of service	11	_____

¹ Use estimated amounts if figuring includible compensation before the end of the year.

² Elective deferrals made to a designated Roth account are not excluded from your gross income and should not be included on this line.

Worksheet C. **Limit on Catch-Up Contributions**

Note. If you will be age 50 or older by the end of the year, use this worksheet to figure your limit on catch-up contributions.

1	Maximum catch-up contributions	1	\$5,500
2	Enter your includible compensation for your most recent year of service	2	_____
3	Enter your elective deferrals	3	_____
4	Subtract line 3 from line 2	4	_____
5	Enter the lesser of line 1 or line 4. This is your limit on catch-up contributions	5	_____

**UNIFORM ONE-YEAR TERM PREMIUMS FOR \$1,000
LIFE INSURANCE PROTECTION**

AGE	COST		AGE	COST
15	0.38		57	5.20
16	0.52		58	5.66
17	0.57		59	6.06
18	0.59		60	6.51
19	0.61		61	7.11
20	0.62		62	7.96
21	0.62		63	9.08
22	0.64		64	10.41
23	0.66		65	11.90
24	0.68		66	13.51
25	0.71		67	15.20
26	0.73		68	16.92
27	0.76		69	18.70
28	0.80		70	20.62
29	0.83		71	22.72
30	0.87		72	25.07
31	0.90		73	27.57
32	0.93		74	30.18
33	0.96		75	33.05
34	0.98		76	36.33
35	0.99		77	40.17
36	1.01		78	44.33
37	1.04		79	49.23
38	1.06		80	54.56
39	1.07		81	60.51
40	1.10		82	66.74
41	1.13		83	73.07
42	1.20		84	80.35
43	1.29		85	88.76
44	1.40		86	99.16
45	1.53		87	110.40
46	1.67		88	121.85
47	1.83		89	133.40
48	1.98		90	144.30
49	2.13		91	155.80
50	2.30		92	168.75
51	2.52		93	186.44
52	2.81		94	206.70
53	3.20		95	228.35
54	3.65		96	250.01
55	4.15		97	265.09
56	4.68		98	270.11

NEW DEVELOPMENTS, YEAR END UPDATE AND 1040 CONSIDERATIONS JANUARY 2012

LIST OF 20 COMMON LAW FACTORS USED TO CLASSIFY WORKERS

The following list of common law factors with citations, adapted from Rev. Rul. 87-41, shows how the IRS views the 20 common law factors. The IRS has released worker classification training material that explains how agents should apply the common law control test. While these materials are useful in anticipating what IRS agents will look for in future employment tax audits, they are not to be used or cited as authority for settling or sustaining a technical position. Therefore, the IRS's common law guidelines as summarized in Rev. Rul. 87-41 (and set forth below) still control worker classification.

1. **Instructions.** A worker who is required to comply with other persons' instructions about when, where, and how he or she is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions. See for example, Rev. Rul. 66-598, 1968-2 C.B. 464.
2. **Training.** Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods, indicates that the person or persons for whom the services are performed want the services performed in a particular manner. See Rev. Rul. 70-630, 1970-2 C.B. 229.
3. **Integration.** Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control (i.e., when the success or continuation of a business depends to an appreciable degree upon the performance of the worker's services). See *United States v. Silk*, 331 U.S. 704 (1947).
4. **Services Rendered Personally.** If the services must be rendered personally, presumably the person for whom the services are performed is interested in the methods used to accomplish the work. See Rev. Rul. 55-695, 1955-2 C.B. 410.
5. **Hiring, Supervising, and Paying Assistants.** If the person or persons for whom the services are performed hire, supervise, and pay assistants, that factor generally shows control over the workers on the job. Compare Rev. Rul. 63-115, 1963-1 C.B. 178, with Rev. Rul. 55-593, 1955-2 C.B. 610.
6. **Continuing Relationship.** A continuing relationship between the worker and the person or persons for whom the services are performed indicates an employer-employee relationship exists. See *United States v. Silk*.
7. **Set Hours of Work.** The establishment of set hours of work by the person or persons for whom the services are performed indicates control. See Rev. Rul. 73-591, 1973-2 C.B. 337.
8. **Full Time Required.** If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, such person or persons have control over the amount of time the worker spends working and by implication restrict the worker from doing other gainful work. See Rev. Rul. 56-694, 1956-2 C.B. 694.
9. **Doing Work on Employer's Premises.** If the work is performed on the premises of the person or persons for whom the services are performed, that factor suggests control over the worker. Rev. Rul. 56-660, 1956-2 C.B. 693. Control over the place of work is indicated when the one for whom the services are performed can compel the worker to travel a designated route, to canvass a territory within a certain time, or to work at specific places as required. See Rev. Rul. 56-694.
10. **Order or Sequence Set.** If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, that factor shows that the worker is not free to follow the worker's own patterns of work. See Rev. Rul. 56-694.
11. **Oral or Written Reports.** A requirement that the worker submit regular reports to the person for whom the services are performed indicates a degree of control. See Rev. Rul. 70-309, 1970-1 C.B. 199, and Rev. Rul. 68-248, 1968-1 C.B. 431.
12. **Payment by Hour, Week, Month.** Payment by the hour, week, or month generally points to an employer-employee relationship, provided that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on a straight commission generally indicates the worker is an independent contractor. See Rev. Rul. 74-389, 1974-2 C.B. 330.
13. **Payment of Business and/or Traveling Expenses.** If the person or persons for whom the services are performed ordinarily pays the worker's business and/or traveling expenses, the worker is ordinarily an employee. See Rev. Rul. 55-144, 1955-1 C.B. 483.
14. **Furnishing of Tools and Materials.** That the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship. See Rev. Rul. 71-524, 1971-2 C.B. 346.
15. **Significant Investment.** If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees, that factor tends to indicate the worker is an independent contractor. On the other hand, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed, and thus the existence of an employer-employee relationship. See Rev. Rul. 71-524.
16. **Realization of Profit or Loss.** A worker who can realize a profit or suffer a loss is generally an independent contractor, but the worker who cannot is an employee. See Rev. Rul. 70-309. The risk that a worker will not receive payment for his or her services, however, is common to both independent contractors and employees.
17. **Working for More Than One Firm at a Time.** The fact a worker performs more than de minimis services for unrelated persons or firms at the same time generally indicate the worker is an independent contractor. See Rev. Rul. 70-572, 1970-2 CB 221. However, a worker who performs services for more than one person may be an employee of each.
18. **Making Services Available to General Public.** The fact a worker makes his or her services available to the general public on a regular and consistent basis indicates an independent contractor relationship. See Rev. Rul. 56-660.
19. **Right to Discharge.** The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An independent contractor cannot be fired as long as he or she meets the contract specifications. Rev. Rul. 75-41, 1975-1 C.B. 323.
20. **Right to Terminate.** A worker's right to end his or her relationship with the person for whom the services are performed at any time without incurring liability indicates an employer-employee relationship. See Rev. Rul. 70-3

**NEW DEVELOPMENTS, YEAR END UPDATE
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Maximum Federal Per Diem Rates (Effective October 1, 2011 – September 30, 2012)

Per Diem Locality			Computing Maximum Rate			
State	Key City	County and /or Other Defined Location	Effective Dates	Maximum Lodging Rate	M&IE Rate	Maximum Per Diem Rate
NY	Albany	Albany	All Year	\$104	\$61	\$165
	Binghamton, Oswego	Broome, Tioga	All Year	\$92	\$46	\$138
	Buffalo	Erie	All Year	\$100	\$56	\$156
	Floral Park, Garden City, Great Neck	Nassau	All Year	\$142	\$66	\$208
	Glens Falls	Warren	1/1 – 6/30	\$94	\$66	\$160
			7/1-8/31	\$138	\$66	\$204
			9/1-12/31	\$94	\$66	\$160
	Ithaca, Waterloo, Romulus	Tompkins, Seneca	All Year	\$118	\$46	\$164
	Kingston	Ulster	All Year	\$105	\$66	\$171
	Lake Placid	Essex	1/1 – 2/29	\$126	\$61	\$187
			3/1 – 6/30	\$99	\$61	\$160
			7/1 – 8/31	\$151	\$61	\$212
			9/1 – 11/30	\$108	\$61	\$169
			12/1 – 12/31	\$126	\$61	\$187
Manhattan (includes the boroughs of Manhattan, Brooklyn, the Bronx, Queens, and Staten Island)	Bronx, Kings, New York, Queens, Richmond	1/1 – 3/31	\$204	\$71	\$275	
		4/1 – 6/30	\$241	\$71	\$312	
		7/1 – 8/31	\$216	\$71	\$287	
		9/1 – 12/31	\$295	\$71	\$366	
Niagara Falls	Niagara	1/1 – 5/31	\$77	\$51	\$128	
		6/1 – 8/31	\$103	\$51	\$154	
		9/1 – 12/31	\$77	\$51	\$128	

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Maximum Federal Per Diem Rates (Effective October 1, 2011 – September 30, 2012)

Per Diem Locality			Computing Maximum Rate			
State	Key City	County and /or Other Defined Location	Effective Dates	Maximum Lodging Rate	M&IE Rate	Maximum Per Diem Rate
NY	Nyack, Palisades	Rockland	All Year	\$105	\$61	\$166
	Poughkeepsie	Dutchess	All Year	\$99	\$66	\$165
	Riverhead, Ronkonkoma, Melville	Suffolk	1/1 – 5/31 6/1 – 8/31 9/1 – 12/31	\$112 \$127 \$112	\$71 \$71 \$71	\$183 \$198 \$183
	Rochester	Monroe	All Year	\$96	\$51	\$147
	Saratoga Springs, Schenectady	Saratoga, Schenectady	1/1 – 6/30 7/1 – 8/31 9/1 – 12/31	\$104 \$148 \$104	\$56 \$56 \$56	\$160 \$204 \$160
	Syracuse, Oswego	Onondaga, Oswego	All Year	\$94	\$56	\$150
	Tarrytown, White Plains, New Rochelle	Westchester	All Year	\$136	\$71	\$207
	Troy	Rensselaer	All Year	\$96	\$51	\$147
	West Point	Orange	All Year	\$108	\$51	\$159

Localities Eligible for \$242 (\$65 M&IE) Per Diem Amount Under the High-Low Substantiation Method (Effective October 1, 2011)

Per Diem Locality			Effective Date of \$242 Rate
State	Key City	County and/or Other Defined Location	
NY	Floral Park, Garden City, Great Neck	Nassau	All year
	Glens Falls	Warren	7/1 – 8/31
	Lake Placid	Essex	7/1 – 8/31
	Manhattan (includes the boroughs of Manhattan, Brooklyn, the Bronx, Queens, and Staten Island)	Bronx, Kings, New York, Queens, Richmond	All year
	Saratoga Springs, Schenectady	Saratoga, Schenectady	7/1 – 8/31
	Tarrytown, White Plains, New Rochelle	Westchester	All year

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FLEXIBLE BENEFIT PLAN HEALTH CARE REIMBURSEMENT LISTINGS

The following examples are **eligible** for reimbursement through the Health Care Spending Act:

- Acupuncture
- Chiropractic services
- Coinsurance/Co-pays
- Contact lenses and solutions
- Deductibles
- Dental Expenses
- Dentures
- Diabetic supplies
- Guide dogs
- Hearing aids/batteries
- Laboratory Fees
- Laser eye surgery
- Childbirth expenses
- Orthodontia
- Pediatric services
- Prescription drugs
- Psychological treatment
- Speech therapy
- Surgical fees
- Transportation fees necessary for medical treatment
- Vaccinations
- Vision expenses

The following examples are **ineligible** for reimbursement through the Health Care Spending Act:

- Cosmetic procedures and supplies
- Marriage/family counseling
- Amount Reimbursable through another benefits plan
- Weight reduction programs for general health
- Premium payments for health, dental or vision care coverage
- Over the counter items (except contact solutions and diabetic supplies)

The following examples are **eligible** for reimbursement through the Dependent Care Spending Act:

- Care for a dependent under the age of thirteen or a qualified individual incapable of self-care
- Licensed nursery school
- Adult day care facilities
- Qualified child care centers
- After school programs

The following examples are **ineligible** for reimbursement through the Dependent Care Spending Act:

- Sleep away overnight camps
- Tuition fees for private or boarding homes
- 24-hour nursing home care
- Weekend or evening baby-sitting that is not necessary for you (and your spouse) to work
- Care provided for your child by a sibling under the age of 19 or someone you claim as a dependent on your income tax return
- Expenses for which you claim a tax credit on your federal income tax return