NEW DEVELOPMENTS, YEAR END UPDATE

AND 1040 CONSIDERATIONS

JANUARY 2020

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I. SCHOOL DISTRICT AND LOCAL GOVERNMENT GUIDANCE

A. 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 are used to finance all or part of the cost of construction, reconstruction or acquisition of a *specific* or *type* of capital improvement or the acquisition of a *specific* or a *type* of 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.

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 to 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 classified as restricted fund balance as per GASB Statement No. 54.

However, unlike the liability calculation for compensated absences under GASB Statement No. 16, school districts and local governments cannot legally accumulate funds in an EBALR for salary-related costs, such as Social Security 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 classified as restricted fund balance as per GASB Statement No. 54.

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 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 reserve 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 purpose. This reserve is classified as restricted fund balance as per GASB Statement No. 54.

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 and local government. 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 classified as restricted fund balance as per GASB Statement No. 54.

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 classified as restricted fund balance as per GASB Statement No. 54.

A retirement contribution reserve (GML §6-r) subfund is used for the purpose of financing retirement contributions made to the New York State Teachers' Retirement System. The reserve subfund 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. Funding during any fiscal year is limited to two percent of the total compensation of teachers employed by the District, who are members of the New York State Teachers' Retirement System, that was paid in the previous fiscal year. The overall balance of the reserve subfund is limited to ten percent

of the total compensation of teachers employed by the District, who are members of the New York State Teachers' Retirement System, that was paid in the previous fiscal year. 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 subfund, 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 classified as restricted fund balance as per GASB Statement No. 54.

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 classified as restricted fund balance as per GASB Statement No. 54.

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 and local government. 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 classified as restricted fund balance as per GASB Statement No. 54.

AS PERMITTED BY EDUCATIONAL 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 classified as restricted fund balance as per GASB Statement No. 54.

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 identity 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 classified as restricted fund balance as per GASB Statement No. 54.

Reserve for Inventory

Reserve for inventory is used to restrict that portion of fund balance which is not available for appropriation. This reserve is classified as nonspendable fund balance as per GASB Statement No. 54.

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 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 classified as unassigned fund balance as per GASB Statement No. 54.

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 classified as restricted fund balance as per GASB Statement No. 54.

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

Monies residing in reserves throughout the year must have interest allocated to them based on their respective balances.

B. REAL PROPERTY TAX RELIEF CREDIT

New York State offered a property tax relief credit program for eligible taxpayers for fiscal years which began in 2016 and continued through 2019. The property tax relief credit program expired in 2019, unless it is extended by the State legislature.

The credit for fiscal years beginning in 2019 is based on a percentage of the property Basic STAR savings, using a progressive income-based percentage schedule. For 2019, taxpayers with income at or below $75,000 will receive a credit payment of 85% of Basic STAR savings, taxpayers with income between $75,000 and $150,000 will receive a credit payment of 60% of Basic STAR savings, taxpayers with income between $150,000 and $200,000 will receive a credit payment of 35% of Basic STAR savings, and taxpayers with income between $200,000 and $275,000 will receive 10% of Basic STAR savings.

For Enhanced Star recipients, there is no income limitation. The amount of the credit payment is 34% for 2019.

In order to receive this credit, the taxpayer's school district must comply with the New York State property tax cap. In addition, you must receive either the Basic or Enhanced Star exemption or credit, and must have paid school property taxes for that year. Municipal compliance with the tax cap is only required for the Big four upstate cities (Buffalo, Rochester, Syracuse, and Yonkers).

Income for the purposes of the limitation above, for 2019, is defined as federal adjusted gross income (FAGI) for the 2017 tax year, with modifications that limit the following:

- The net amount of loss reported on Federal Schedule C, D, E, F, or any other separate category of loss does not exceed $3,000;
- The aggregate amount of all losses does not exceed $15,000.

C. TAX SHELTER ANNUITIES – LIMITATIONS

	2020	2019	2018	2017	2016
Exclusion for elective deferrals [IRC §402(g)(1)]	$19,500	$19,000	$18,500	$18,000	$18,000
Limitation on total elective and non-elective contributions [IRC §415 (c)(1)(A)]	$57,000	$56,000	$55,000	$54,000	$53,000
Limitation on deferrals under government [IRC §457(b)(2), IRC §457(c)(1)]	$19,500	$19,000	$18,500	$18,000	$18,000
Age 50 catch-up contributions limit (non-SIMPLE plans)[IRC §414(v)(2)(B)(i)]	$6,500	$6,000	$6,000	$6,000	$6,000
15 years of service catch-up limit	$3,000	$3,000	$3,000	$3,000	$3,000

D. RETIREMENT CONTRIBUTION PLANS UPDATE

New Contribution Rates

The 2019-2020 Teachers' Retirement System (TRS) employer contribution rate is 8.86%. The 2020-2021 TRS rate is estimated to be between 9.25% and 10.25% of payroll. According to TRS, the estimated rate reflects changes to some actuarial assumptions. An administrative bulletin will be provided in February 2020 with a more precise estimate of the 2020-2021 TRS rate.

The 2019-2020 employer contribution rates for the Employees' Retirement System (ERS) are 21.2% for Tier 1, 19.4% for Tier 2, 15.8% for Tier 3 and 4, 13.2% for Tier 5, and 9.3% for Tier 6. For Tiers 1 and 2, this includes Plan ID 75i/75-h. For Tiers 3 through 6, this includes Plan ID A14 and A15, and school service option. The 2020-2021 rate for ERS is 21.4% for Tier 1, 19.6% for Tier 2, 16.1% for Tier 3 and Tier 4, 13.4% for Tier 5, and 9.6% for Tier 6.

The Police and Fire Retirement System (PFRS) employer contribution rate ranges for 2019-2020 for Tier 1 are 12.0% to 25.3%, for Tier 2 10.5% to 25.1%, for Tier 3 10.5% to 24.2%, for Tier 5 6.9% to 20.6% (contributory), and for Tier 6 3.0% to 15.3% (contributory). The 2020-2021 employer contribution rates range for Tier 1 are 12.7% to 26.7%, Tier 2 11.1% to 26.6%, Tier 3 11.1% to 25.7%, Tier 5 7.5% to 21.9% (contributory), and Tier 6 3.4% to 16.4% (contributory). Each percentage in the tier is determined based upon the various retirement plans related to that tier and does not include any additional plan options.

E. GASB UPDATE

GASB Statement No. 84, *Fiduciary Activities*

This Statement is effective for reporting periods beginning after December 15, 2018, and provides guidance for identifying fiduciary activities and how these should be reported. The focus for determining fiduciary activities is primarily based on two factors, whether the government is controlling the assets of the fiduciary activity, and the beneficiaries with whom the fiduciary relationship exists. There are separate criteria outlined in the Statement to determine fiduciary component units and postemployment benefit plans that are fiduciary activities.

The criteria to be considered another fiduciary activity (excluding fiduciary component units and pension and OPEB arrangements) include:

- The assets associated with the activity are controlled by the government (including holding the assets, or having the ability to direct their use).
- The assets associated with the activity are **not** derived either solely from the government themselves, or from government–mandated nonexchange transactions or voluntary non-exchange transactions.
- The assets have one or more of the following characteristics:
  - Are administered through a trust in which the government itself is not a beneficiary, dedicated to providing benefits to recipients in accordance with the benefit terms, and legally protected from the creditors of the government.
  - The assets are for the benefit of individuals and the government does **not** have administrative involvement with the assets or direct financial involvement with the assets. In addition, the assets are **not** derived from the government's provision of goods or services to those individuals.
  - The assets are for the benefit of organizations or other governments that are **not** part of the financial reporting entity. In addition, the assets are **not** derived from the government's provision of goods or services to those organizations or other governments.

The Statement identifies four kinds of fiduciary funds that may be reported: pension (and other employee benefit) trust funds, investment trust funds, private-purpose trust funds, and custodial funds. In addition, a Statement of Fiduciary Net Position, as well as a Statement of Changes in Fiduciary Net Position is required, for all of these funds. The Statement of Changes in Fiduciary Net Position should include additions and deductions by source/type with certain items required to be separately displayed such as investment earnings and administrative costs.

GASB Statement No. 87, *Leases*

This Statement is effective for reporting periods beginning after December 15, 2019, and establishes a single model for lease accounting based on the idea that leases are financings of the right-to-use an underlying asset. As such, under this Statement, a lessee is required to recognize a lease liability and an intangible right-to-use lease asset, and the lessor is required to recognize a lease receivable and a deferred inflow of resources.

A lease, as defined for purposes of this Statement, is a contract that conveys control of the right to use another entity's nonfinancial asset as specific in the contract for a period of time in an exchange or exchange-like transaction. Non-financial assets include buildings, land, vehicles, and equipment. This would not include leases for intangibles (except for a sublease of the intangible right-to-use leased tangible asset), leases for inventory, service concession agreements, power purchase agreements, short-term leases, or contracts that ultimately transfer ownership of the underlying asset to the lessee. Short-term leases are defined as those that, at the commencement of the lease term, have a maximum possible term under the lease contract of 12 months or less, including any options to extend, regardless of their probability of being exercised.

Under the economic resources measurement focus, the lessee would recognize a lease liability, which would be measured at the present value of payments expected to be made during the lease term (less any lease incentives). In addition, a lease asset would be recorded, and should be measured at the amount of the initial measurement of the lease liability, plus any payments made to the lessor at or before the commencement of the lease term and certain direct costs.

In subsequent periods, the lease liability would be reduced by the lease payments, and interest expense would be recognized for the interest payments. The lease asset would be amortized over the shorter of the lease term or useful life of the underlying asset. Note disclosures are required to include a description of the leasing arrangement, amount of lease assets recognized, and a schedule of future lease payments with principal and interest separately reported.

For the lessor, under the economic resources measurement focus, a lease receivable representing the present value of the lease payments expected to be received during the lease term would be recognized. The lessor should also continue to report the underlying asset. The lessor also recognizes a deferred inflow of resources measured at the value of the lease receivable plus any payments received at or before the commencement of the lease term that relate to future periods.

In subsequent periods, the lessor reduced the lease receivable for payments received, and records interest revenue for the interest received. The deferred inflow of resources is recorded as revenue in a systematic and rational manner over the term of the lease. The notes to the financial statements should include a description of the lease arrangement and the total amount of inflows recognized from leases.

The Statement also provides guidance on lease modifications and terminations, subleases and leaseback transaction, as well as contracts with multiple components and contract combinations.

GASB Statement No. 89, *Accounting for Interest Cost Incurred Before the End of a Construction Period*

This Statement is effective for financial statements for periods beginning after December 15, 2019, with earlier application is encouraged, and should be applied prospectively. It provides that in financial statements prepared using the economic resources measurement focus, interest incurred before the end of the construction period should be expensed in the period the cost is incurred, and not capitalized as part of the historical cost of a capital asset. Previously, enterprise funds and business-type activities have capitalized these interest costs.

In addition, it reinforces that in financial statements prepared using the current financial resources measurement focus, interest cost incurred before the end of a construction period should be recognized as an expenditure, consistent with governmental fund accounting principles.

GASB Statement No. 90, *Majority Equity Interests –An Amendment of GASB Statements No. 14 and No. 61*

This Statement is effective for financial statements for periods beginning after December 15, 2018, earlier application is encouraged, and should be applied retrospectively with the exception of paragraphs 8 and 9 of the Statement. The Statement was issued in order to provide clarification on when a government should report a majority equity interest in a legally separate organization as either a component unit or an investment.

For purposes of applying this Statement, GASB defines an equity interest as a financial interest in a legally separate organization evidenced by the ownership of shares of the organization's stock or by otherwise having an explicit, measurable right to the net resources of the organization that is usually based on an investment of financial or capital resources by a government. An equity interest is explicit and measurable if the government has a present or future claim to the net resources of the entity and the method for measuring the government's share of the entity's net resources is determinable.

The Statement provides that if the majority equity interest meets the definition of an investment in paragraph 64 of GASB Statement No. 72, the government should report the majority equity interest as an investment and measure it using the equity method as described in paragraphs 205-209 of GASB Statement No. 62, as amended (and not reported as a component unit of the government). However, the fair value measurement method as described in paragraph 64 of GASB Statement No. 72 should be used to report the equity interest if the investment is held by any one of the following types of governments or funds:

- Special-purpose government engaged only in fiduciary activities
- Fiduciary Fund
- Endowment (including permanent and term endowments)
- Permanent Fund

If the equity interest does not meet the definition of an investment, then the government is financially accountable for the organization and should report the legally separate organization as a component unit, either as a blended or a discretely presented component unit, as applicable. It should be reported as an asset of the government or fund that holds the equity interest, measured using the equity method as discussed above. If reported as a blended component unit, the asset and net position of the equity interest should be eliminated in the blending process.

The Statement also provided guidance on how to report an acquisition of a 100% equity interest in a legally separate organization that is reported as a component unit.

GASB Statement No. 91, *Conduit Debt Obligations*

This Statement is effective for financial statements for periods beginning after December 15, 2020 with earlier application encouraged.

The Statement was issued due to the varying reporting practices that were seen involving conduit debt obligations, and provides a single reporting method for commitments extended by issuers, arrangements associated with conduit debt obligations, and related note disclosures. Some highlights are included below.

A conduit debt obligation is defined as a debt instrument that has all of the following:

- There are at least three parties involved: an issuer, a third-party obligor, and a debt holder or a debt trustee.
- The issuer and the third-party obligor are not within the same financial reporting entity.
- The debt obligation is not a parity bond of the issuer, nor is it cross-collateralized with other debt of the issuer.
- The third-party obligor or its agent, not the issuer, ultimately receives the proceeds from the debt issuance.
- The third-party obligor, not the issuer, is primarily obligated for the payment of all amounts associated with the debt obligation (debt service payments).

While all conduit debt involves the issuer making a limited commitment, Statement No. 91 states that this debt should not be recognized as a liability by the issuer. However, if an issuer extends additional commitments, the issuer should perform an annual evaluation of whether the recognition criteria, as described in the Statement, have been met, and record the transaction following the recognition and measurement provisions provided therein.

For limited commitments, the issuer should evaluate the likelihood that it will make a debt service payment due to a voluntary commitment when there is a circumstance or event that causes it to consider supporting debt service payments for that conduit debt obligation. If that event or circumstance occurs, the issuer should then apply the recognition and measurement criteria provided, and annually re-evaluate if those criteria continue to be met or not.

Statement No. 91 also establishes standards for accounting and financial reporting of arrangements associated with conduit debt obligations (often characterized as leases).

Notes to the financials statements should also include a general description of the issuer's conduit debt obligation, the issuer's limited liability, voluntary commitments, additional commitments (including the legal authority and limits for extending the commitment, the length of time of the commitment, and any arrangements for recovering payments from the third-party obligor), as well as the outstanding principal at the end of the reporting period, by type of commitment. For issuers that recognize a liability as discussed earlier, disclosure about the timing and measurement of the liability, as well as changes in the liability and amounts paid are required.

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

F. UNIFORM GUIDANCE PROCUREMENT CHANGES FOR FEDERAL AWARDS

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, ("Uniform Guidance"), effective for new federal awards, and changes to funding increments with changed term and conditions issued after December 26, 2014, contains significant changes to the procurement rules for federal awards. These procurement rules contained a grace period which made the requirements applicable for fiscal years beginning after December 26, 2017, for those that elected the grace period. Therefore, a June 30th year-end who elected the extension was required to be in compliance with the new standards for the fiscal year beginning July 1, 2018.

The procurement standards are contained in sections 200.317 through 200.326 of the Uniform Guidance, and should be reviewed by all entities receiving federal awards to ensure that any requirement described as a "must" is being met. The standards include relying heavily on written documentation that must be maintained, as well as specific policies and procedures.

General Requirements
In general, the Uniform Guidance key requirements include (but are not limited to) the following for non-federal entities receiving federal awards:

- Must have written procurement policies that follow not just the Uniform Guidance, but all state and local regulations (provided they do not conflict with federal laws or the Uniform Guidance)
- Must maintain written standards of conduct regarding conflicts of interest. No employee, officer or agent may participate in the selection, award or administration of a contract supported by a federal award if he or she has a conflict of interest, either real or apparent. The standards must include the disciplinary actions that will be applied for any violations of the standards.
- Must avoid unnecessary or duplicative items. Also they are encouraged to use shared services agreements, enter into state and local intergovernmental agreements where appropriate, to foster greater efficiency and cost-effectiveness.
- Must award contracts only to responsible contractors while considering things such as integrity of the contractor, past performance, and financial and technical resources. In addition, the non-federal entity must maintain proper oversight to ensure the contractor is performing in accordance with the terms and conditions in their contracts and/or purchase orders.
- Must maintain documents that detail the procurement history including the rationale for the method of procurement (discussed below), contract type, contractor selections or rejection, and the basis for the contract price.
- Full and open competition must be conducted. This precludes any contractor who participated in drafting specifications, requirements, invitations for bids or request for proposals from competing for the procurement. It also limits certain unreasonable requirements in the bids or request for proposals that are meant to limit competition, prohibits the use of geographic preferences in evaluating bids or proposals but provides certain exceptions, and requires that any prequalified lists be kept current.

Required Methods of Procurement

Non-federal entities must use the five procurement methods described in the Uniform Guidance. They include:

- Micro-purchases – purchases of supplies or services where the aggregate value does not exceed $3,000 (now increased to $10,000 as discussed below). These may be awarded without obtaining competitive quotes if the entity deems the price reasonable, and should be distributed among qualified suppliers, if practical.
- Small Purchases – simple and informal method for procuring services, supplies, or other items, that do not exceed the simplified acquisition threshold of $150,000 (now increased to $250,000 as discussed below). Price or rate quotes must be obtained from an adequate number of qualified sources. The number of qualified sources, as well as the method of obtaining the quote (whether in writing, verbal, website pricing, or search engine, etc), is left at the discretion of the non-federal entity, to be included in their policy.
- Sealed Bids- Used for purchases over the simplified acquisition threshold now at $250,000, where publicly solicited bids are obtained and a fixed price contract is awarded to the responsible bidder who conformed to the terms and conditions and is the lowest price. This is normally associated with construction contracts.
- Competitive Proposals- Used for purchases over the simplified acquisition threshold now at $250,000, whereby publicly advertised requests for proposals are conducted (which identify all evaluation factors and their importance), and a fixed price or cost-reimbursement type contract is awarded. Competitive proposals are used when sealed bids are not appropriate. Contracts are awarded not just based on price, but where the firm's proposal is most advantageous to the program.
- Noncompetitive Proposals- This is procurement through a sole source, which is limited to specific instances such as when the item is only available from one source, a public emergency where the delay caused by competitive solicitation would not be permitted, the federal awarding agency or the pass-through entity such as New York State Education Department has expressly authorized it based on a written request from the non-federal entity, or after failing to get a required number of responses from competitive solicitation.

As mentioned above, when the Uniform Guidance was originally issued, it included a micro-purchase threshold of $3,000. It also included a simplified acquisition threshold (to be used for small purchases) of $150,000. The simplified acquisition threshold is set by Federal Acquisition Regulations, but is periodically adjusted. In June of 2018, the Office of Management and Budget (OMB) issued a memorandum entitled "*Implementing Statutory Changes to the Micro-Purchase and the Simplified Acquisition Thresholds for Financial Assistance*". It details how the federal government increased the micro-purchase threshold for all recipients of federal awards to $10,000, and the simplified acquisition threshold to $250,000. Normally these changes are not effective until they are codified in the federal regulations and Uniform Guidance. However, OMB has granted an exception for these thresholds, and recipients of federal awards may update their internal controls, and policies and procedures using the higher amounts, as of the date of the memo, June 20, 2018.

All entities receiving federal awards should review the Uniform Guidance and related guidance, as well as their current policies and procedures, to ensure they are in compliance with the new regulations. School districts can utilize the sample procedural manual issued by the New York

Association of School Business Officials (ASBO) on October 22, 2019 as a resource when updating their policies and procedures.

G. OFFICE OF THE STATE COMPTROLLER BULLETIN UPDATE

The Office of the State Comptroller ("OSC") issued a bulletin titled "*Account Codes for ERS & TRS Reserve Contributions*" in June 2019. The bulletin provides updated account code guidance for school districts recording contributions to the New York State and Local Employee Retirement System (ERS) and to the New York State Teachers' Retirement System (TRS). The bulletin provides ST-3 account codes to be utilized for the Reserve for State and Local Retirement System Contributions (A 827), and the Reserve for Teachers' Retirement System Contributions (A 828).

The OSC issued a bulletin titled *Account Code for Aid and Incentives for Municipalities ("AIM") – Related Payments* in December 2019. This bulletin provides guidance related to accounting for AIM – Related Payments. These payments are a result of a recent amendment to the New York State Tax Law, which requires a portion of county-imposed sales tax revenues to be withheld and distributed by the State Comptroller to certain towns and villages in accordance with new Tax Law Section 1261.

The 2019-20 Enacted State Budget reduced traditional AIM program funding by roughly $59 million by eliminating payments to approximately 1,300 towns and villages where AIM funding represented less than 2 percent of total expenditures. The 2019-20 Enacted State Budget also amended the Tax Law to provide that a portion of county-imposed sales tax revenues be distributed this year, and every future year, to fund the gap in revenues resulting from the eliminations of AIM moneys for such towns and villages.

The new revenue code 2750 – AIM – Related Payments should be used when a town or village receives AIM – Related Payments. All towns, and villages with fiscal year ends of February 28, March 31, July 31 or December 31 will receive their AIM – Related payment on or before December 15, 2019 and every December thereafter. Villages with a May 31 fiscal year end will receive their AIM – Related payment on or before May 15, 2020, and every May thereafter.

H. CHILD NUTRITION PROGRAM – PROHIBITION AGAINST MEAL SHAMING AND OTHER CHANGES

Prohibition Against Meal Shaming

In 2018, New York State amended Education Law 908 by adding Section 1 of Part B of Chapter 56 of the laws titled "*Prohibition Against Meal Shaming*." The law states that beginning with the 2018-19 school year all public-school food authorities that require their students to pay for a school breakfast and/or lunch meal must develop and adopt a written plan to ensure that a student whose parent or guardian has unpaid meal charges is not shamed or treated any differently than a pupil whose parent or guardian does not have unpaid school meal charges. As such, this prevents a school from offering an "alternative" meal to students whose parent or guardian has unpaid meal charges. The new legislation requires school food authorities to provide students with the reimbursable meal of their choice in an effort to decrease student distress and

embarrassment associated with not having adequate funds to pay for a meal or having unpaid meal charges. School food authorities were required to have their completed plans formally adopted by their governing body and effective as of July 1, 2018. In addition, school food authorities were required to submit their completed plans to the New York State Education Department as of the same date and are required to have the plan accessible on their District website.

Unpaid Meal Charges

The Prohibition Against Meal Shaming legislation specifically states that it is not intended to allow for the unlimited accrual unpaid meal charge debt. In their plans school food authorities must include specific procedures regarding their collection efforts on unpaid meal charges. All efforts must be directed to the parent or guardian and should provide for repayment options, if possible. Additionally, school food authorities must ensure that their school lunch fund is reimbursed for all outstanding meal charges as of June 30th of each school year. Funds used to reimburse the school lunch fund must be derived from a non-federal source, such as the District's general fund. Any funds recouped subsequent to the school lunch fund being made whole should be transferred back to the general fund or other account that was used to replenish the school lunch fund. School food authorities are required to maintain adequate documentation to support the transfer of funds to cover all unpaid meal debt within the school lunch fund.

Breakfast After Start of the Instructional Day

Section 2 of Part B of Chapter 56 amends the law to provide that all public elementary and secondary schools with at least 70% or more of its students eligible for free or reduced meals in the prior year, under the National School Lunch Program, must offer all students a school breakfast after the instructional day begins. If required to do so, each school will be allowed to determine the breakfast delivery model (i.e. breakfast served in the cafeteria, breakfast in the classroom, or "grab and go" breakfast) that best suits its students after consulting with teachers, parents, students, and community members. Time spent by students eating breakfast in their classrooms while instruction is being provided may be counted as instructional time. Schools must provide notice to parents and guardians that the school will be offering breakfast to students after the instructional day has begun. Districts will also have the option to apply for a waiver from this requirement with the Commission of Education if they feel their existing breakfast program is successful enough as is or that such a program would cause economic hardship for the District.

School Lunch Subsidy

Starting with the 2019-20 school year, Districts are eligible for an additional lunch meal state subsidy of 25 cents for any school lunch meal served by the District, so long as they can certify to the State Education Department that it purchased at least 30 percent of its total cost of food products for its school lunch program from New York State farmers, growers, producers, or processors in the preceding school year.

Paid Lunch Equity (PLE) Guidance and Exemption

Beginning with the 2018-19 school year New York State has provided that only school food authorities with a negative balance in their school lunch fund account as of January 31st must follow the PLE requirements when establishing their prices for paid lunches for the subsequent school year beginning on July 1st. Any school food authority with a positive or zero balance in its school lunch fund as of January 31st are exempt from the PLE requirements. However, any school food authority that elects to utilize the exemption must perform the following:

- Send an email to the State Education Department Child Nutrition Program Administration stating that they wish to use the PLE exemption. They should also include their complete District name and 12 digit SFA LEA code.
- Attach the profit and loss statement from their school lunch fund as of January 31st to support that they meet the PLE exemption requirements.

Upon completion of these procedures, school food authorities will receive an email from the State Education Department indicating the status of their PLE exemption request. All documentation submitted to the State as well as the approval email must be maintained and readily available for review.

I. SCHOOL-LEVEL BUDGET AND EXPENDITURE REPORTING

New York State School Funding Transparency Reporting and Education Law Section 3614

According to the New York State Division of the Budget, New York schools are funded at the highest per pupil rate in the nation. In addition, education costs represent the largest share of the State Budget. In order to provide transparency on how education funds are being allocated and used by the districts to their individual school buildings, and to ascertain if the individual buildings amongst a district are being provided their equitable share of funding, New York State has passed Education Law Section 3614.

Education Law 3614 requires school districts to annually submit to the State Education Department and the Division of the Budget, a statement of funding allocation for each school in the district, for the upcoming school year. The Division of the Budget has developed the New York State School Funding Transparency Form for this purpose. The form captures various data including methodologies and rationales for school-level funding determinations, projected centralized costs which must be allocated using uniform decision rules to the individual schools, school-level student and staff information such as enrollment date and demographics, as well as any school-level allocations under any locally implemented per pupil funding formula.

Reporting requirements began for school districts for the fiscal year ending June 30, 2019. For the fiscal year ending June 30, 2020, all school districts with four or more schools (per SED's 2016-2017 School Report Card) are required to report. There are 306 schools meeting this requirement. For the fiscal year ending June 30, 2021, all 673 school districts receiving Foundation Aid will be required to report. Reporting for fiscal year ending 2021 and beyond is due by the Friday prior to Labor Day. For the fiscal year ended 2021, the deadline is September 4, 2020, at 5:30 pm.

There are three notable changes to the School Funding Transparency process for the fiscal year ending June 30, 2020. Districts will now be able to complete the *New York State School Funding Transparency Form* online. This online form will replicate the previously used *Excel* file and includes several enhancements designed to improve the reporting process. While Part A of the form remains largely unchanged, rows were added to discretely capture employee benefits for school district staff that provide services to charter and nonpublic schools, the *Committee on Special Education/Preschool Special Education,* any districtwide *Summer Programming and Services,* and *Other Districtwide Staff.* Additionally, the State will now have 45 days to review school district submissions for compliance. If a request is made by the State for additional information from the school district, submission deadlines will still be extended by 30 days from the date of the written request for more information.

Once the forms are completed, they should be reviewed for consistency, accuracy and completeness of all data entered. As part of the new online application process, the *Superintendent Certification of Authority and Accuracy* is now a digital process. School districts that fail to file by the submission deadline, or do not fully complete the form, will have the annual State Aid increase for the District for the 2019-2020 school year temporarily withheld until the form is submitted in compliance with Education Law Section 3614.

Once the form has been submitted to the Division of the Budget and State Education Department, (or if a revised form is required to be submitted based on review) it is required to be published by the District on their website, in *Excel* format, for at least one full calendar year. The Division of the Budget will also be publishing all school district submissions and the approval status of all submissions, on their website as well.

Guidance has been issued by the Division of the Budget, including a walkthrough of the various sections of the forms, as well as a frequently asked questions document, and is available on their website at www.budget.ny.gov.

Federal Spending Reporting per Every Student Succeeds Act (ESSA)

In addition to the budget reporting discussed above, in response to new federal regulations, school districts are also required to report actual school-level expenditures from the prior year, to New York State, as part of New York State's approved Every Student Succeeds Act Plan. Reporting must be completed annually beginning in the 2019-2020 school year for 2018-2019 actual expenditures. The IRS Data Exchange (IDEx) Portal is open for all school districts and actual expenditure data must be submitted through the portal by March 1, 2020. NYSED plans to publish the final report template in early 2020 once expenditure data has been collected. In December 2019, New York State issued the *ESSA Financial Transparency Report 2018-19 School Year Expenditures Guidance for School Business Officials* to assist districts in preparing and submitting the required information. The guidance document includes details of expenditure reporting categories as well as report submission instructions and is available at www.nysed.gov.

J. EDUCATION LAW 2-D AND PART 121 REGULATIONS

NYS Education Law §2-d was established in Chapter 56 of the laws of 2014 and, in coordination with Family Educational Rights and Privacy Act (FERPA), governs the treatment of personally

identifiable information (PII) for students, teachers, and administrators. The Part 121 regulations clarify the requirements of NYS Education Law §2-d for educational agencies and third-party contractors. The primary purpose of the regulations is to strengthen data privacy and security surrounding PII. There are nine requirements included in the Part 121 regulations as follows:

- Protection of Personally Identifiable Information (PII)
- Bill of Rights for Data Privacy and Security
- Data Security and Privacy Policy
- National Institute of Standards and Technology (NIST) Cybersecurity Framework
- Third Party Contracts
- Annual Employee Training
- Unauthorized Disclosure Compliance
- Incident Reporting and Notification
- Data Protection Officer

The Board of Regents adopted the Part 121 regulations on January 13, 2020. School districts are required to have a Board approved data privacy and security policy in place by July 1, 2020. Guidance documents for all nine requirements are available at http://riconedpss.org/resources.

K. BUILDING CONDITION SURVEY AND VISUAL INSPECTION

The 2019 Enacted Budget included changes to Education Laws §409-d and §3641 which relate to the five-year cycle for building condition surveys (BCS) and the requirement for annual visual inspections (AVI). As part of the updated laws, the Commissioner created a staggered schedule for the calendar years 2020 through 2024 which assigns each school district a year in which they must conduct BCS. School districts must continue to conduct BCS every five years on that same five-year cycle thereafter.

As a result, the new schedule will stretch out the period between the intensive building condition surveys for several years for some school districts. To address this, the visual inspection requirement was partially reinstated, although it is no longer annual. For the years 2020 and 2022, districts that have not yet completed a building condition survey in the five-year cycle will be required to complete a visual inspection in those years. For all other school districts, and thereafter, visual inspections will only need to be conducted as deemed necessary by the Commissioner. The assignment list for the 2020-2024 BCS is available at www.p12.nysed.gov/facplan/BlgCondSurv.htm.

L. FIRE INSPECTION

New York State Assembly Bill A.1906A was signed into law amending Section 807-a of the Education Law. Section 807-a requires school districts to inspect buildings containing classroom, laboratory, physical education, dining, or recreational facilities for fire hazards at least annually. Under the previous version of the law, inspection methods included employing an individual who, in the judgement of school district authorities, was qualified to make such an inspection, however this method was removed in the amended law. Under the new law, school

districts may request inspection by a fire department, a fire corporation, the county fire coordinator, or a fire inspector who holds a valid certification. The complete text of the bill and all changes is available on the New York State Senate website https://www.nysenate.gov/legislation/bills/2019/a1906/amendment/a.

II. TOP TEN INTERNAL CONTROL DEFICIENCIES CITED IN THE NEW YORK STATE COMPTROLLER'S REPORTS – SCHOOL DISTRICTS

10. Capital Assets

- The Board did not adopt a comprehensive policy for identifying, recording, and disposing of capital assets.
- The Board did not designate a Property Control Manager.
- Capital assets were not properly tagged as District property and were not recorded on the District inventory listing.
- District officials did not maintain up-to-date disposal records.
- The Board did not approve the disposal of assets.
- Capital assets being disposed of lacked detailed supporting documentation, such as either sales records, or Board approval.
- Capital assets could not be traced to designated locations.
- Capital assets tag numbers did not agree to fixed asset inventory records.
- Information technology assets were not included on the inventory list, and could not be located.

9. Medicaid

- Service providers did not document scheduled services in the special education system as provided.
- Claims were not submitted and reimbursed. Had these services been appropriately claimed, the District could have realized revenues.
- Rejected claims were not resubmitted for eligible services.
- Service records were not available for students.
- The District lacked adequate policies and procedures to ensure Medicaid claims were submitted and reimbursed for all eligible services provided.

8. Extra classroom Activity Fund

- Extra classroom clubs did not maintain adequate supporting documentation for collections.
- The Central Treasurer did not always deposit funds in a timely manner.
- Disbursements reviewed lacked adequate supporting documentation required by the District's policy.
- Collection documentation differed from the amounts deposited, resulting in more deposited than supported.
- A student club used collections to make a cash payment to a vendor rather than following the disbursement process.
- Student treasurers were not adequately involved with maintaining club accounting records.
- The Board did not appoint a Faculty Advisor or a Central Treasurer, as required.
- The Central Treasurer did not prepare timely reports for the Board or the auditor.
- The Faculty Auditor did not review extra classroom activity records to ensure compliance with the Regulations.

- Disbursements with cash advances did not have the proper approvals.

7. Cash Management

- District officials did not develop and manage a comprehensive investment program to ensure interest earnings were maximized.
- Bank reconciliations were not prepared in a timely matter.
- The District did not have assurance that all cash receipts were properly accounted for due to internal control weaknesses.
- The Treasurer did not ensure that the recorded balance for the general fund bank account reflected the actual cash balance.

6. School Food Service Program

- The school lunch fund experienced an operating loss.
- The District did not perform a cost-per-meal equivalent (ME) or meals-per-labor-hour analyses (MPLH).
- School lunch collections were not properly recorded.
- School food service cash receipt duties were not properly segregated.
- There was insufficient oversight relating to school food service cash receipts.
- The Cafeteria Manager did not adequately oversee the cash receipt function.
- The Board did not adopt formal policies and procedures regarding cafeteria collections.
- Board and District officials annually increased meal prices, despite repeated warnings from its external auditor that the school food surplus fund balance was excessive.

5. Information Technology

- Officials did not disable or remove unnecessary user accounts on the network in a timely manner.
- District employees and staff were not provided information technology security or cybersecurity awareness training.
- District officials did not develop procedures for managing, limiting and monitoring user accounts and permissions and securing personal, private and sensitive information.
- District computers were being used for social networking, shopping, travel and other personal intent.
- Users stored personal data, such as photos, videos and music, on District computers.
- Employees did not comply with the District's acceptable use policy.
- The Information Technology Director did not adequately monitor the electronic devices inventory resulting in items not being recorded.
- The Board and District officials did not monitor computer use policies.
- The Board and District officials have not adopted adequate security policies and procedures to safeguard information technology assets.
- The Board did not adopt a Disaster Recovery Plan.
- The Disaster Recovery Plan lacked necessary information to protect assets and data.
- The Board did not appoint a Chief Information Officer responsible for all information technology matters.
- The Board did not have an adequate contract and separate service level agreement for information technology services provided.

4. Payroll & Personnel

- ♦ Collective bargaining agreements were not comprehensive, and payroll and personnel policies were outdated.
- ♦ District officials did not properly monitor, document and approve overtime.
- ♦ Employee timekeeping records were inconsistent or missing the appropriate supervisor approval.
- ♦ District officials did not ensure that sufficient documentation was maintained to verify the calculations of certain retirees' contributions.
- ♦ District officials did not always ensure employees submitted a leave request form or ensure the legitimacy of leave taken.
- ♦ District officials did not have adequate procedures to ensure salary and wages were paid accurately.
- ♦ Leave earned by employees was not always in accordance with collective bargaining agreements.
- ♦ Leave accrual records were inaccurate and not properly supported or approved.
- ♦ The District inappropriately provided an advance of separation pay.
- ♦ The Superintendent was not certifying payrolls prior to the Treasurer distributing paychecks and processing direct deposits.
- ♦ The Superintendent was not using payroll change reports as part of the payroll certification process.
- ♦ The Board did not authorize salaries paid.
- ♦ Retirees received payments they were not eligible for including health insurance buyouts and Medicare Part B reimbursements.
- ♦ The health insurance buyout calculations were not reviewed before payment.
- ♦ Payroll payments were not accurate, supported or paid in accordance with contracts or Board resolutions.

3. Reserve Funds

- ♦ The Board did not adopt a written reserve policy.
- ♦ The District did not develop a written reserve fund policy that describes the maximum funding level and the planned use of the reserves.
- ♦ The written reserve fund policy did not adequately address funding levels resulting in overfunded reserves that were not used.
- ♦ Reserves were over funded or unneeded.
- ♦ Reserve funds were not utilized as intended or as budgeted.
- ♦ The District did not utilize available reserves for related expenditures.
- ♦ District officials approved unbudgeted year-end transfers to reserves and the capital projects fund.
- ♦ The Business Official's report of reserves did not comply with requirements of the Board's policy.

2. Purchasing & Procurement

- ♦ The Board did not establish adequate policies or ensure that District officials developed adequate written procedures for procuring professional services.
- ♦ District officials did not ensure that the Board adopted procurement policy was always followed.

- District officials made purchases without obtaining or documenting price quotes as required by the purchasing policy.
- District officials did not seek competition, or did not properly award competitive bids for purchases or professional services providers.
- District officials lacked adequate evidence to show they sought competition for purchases.
- District officials could have saved if they purchased from the New York State Office of General Services cooperative bid.
- The District lacked written contracts with professional service providers.
- Checks were printed and signed before the claims auditor audited and approved them.
- Claims were not audited and approved before payments were made.
- Claims exceptions were noted, such as a lack of purchasing agent approval prior to purchase, evidence of oral quotes, departmental approval, evidence of receipt of goods or services, or itemized receipts or invoices.
- The claims auditor did not report the results of the claims auditing process directly to the Board.
- The claims auditor did not sign the warrants on which claims were listed to indicate audit and approval.
- District officials did not implement adequate internal controls over disbursements and payroll duties.
- The District did not require proof of attendance at conferences.
- The District reimbursed employees for unnecessary travel costs.
- The District paid an investigator more than the Board-approved rate.

1. Financial Management & Budgeting

- The Board did not adopt a comprehensive multi-year financial and capital plan.
- The Board did not adopt a fund balance policy.
- Adopted budgets overestimated appropriations.
- The District experienced unplanned operating surpluses.
- Budgeted expenditures were overestimated.
- Significant estimated revenues and budgeted expenditures in the adopted budget were not reasonable.
- The District budgeted appropriated fund balance which was not utilized.
- The District's unrestricted fund balance exceeded the statutory limit.
- Despite budgetary surpluses and excess fund balance, the Board increased the tax levy.
- District officials appropriated more fund balance than was available.
- Financial activity was not accounted for in the correct fund.
- Estimated revenues and property tax levy were insufficient to finance the expenditures.
- District officials made excessive year-end budget transfers without Board approval.
- Encumbrances were overstated.
- Unrestricted fund balance was not reported accurately because encumbrances, accrued liabilities and accounts payable were overstated.
- The District retained funds in the debt service fund which were not utilized for debt service payments.

III. TOP TEN INTERNAL CONTROL DEFICIENCIES CITED IN THE NEW YORK STATE COMPTROLLER'S REPORTS – LOCAL GOVERNMENTS

10. Information Technology

- The Board did not develop proper Information Technology controls.

9. Length of Service Award Program (LOSAP)

- The Fire District's LOSAP policy was not consistent with New York State General Municipal Law (GML) as the policy did not award points for certain activities in accordance with GML.
- Prior year's LOSAP records for numerous members did not sufficiently support points awarded.
- Members may not have earned the required points to be credited for a year of service.

8. Accrued Leave and Benefits

- The Treasurer did not maintain separate records on leave accruals earned and used for administrative employees, or the amount of sick leave accrued and to be carried over to the next fiscal year.
- The amounts paid by surviving spouses for their health insurance premiums were inaccurate.
- Surviving spouses had outstanding balances and surviving spouses were overpaid.

7. Board Oversight

- The Fire District's Board did not ensure that the Treasurer's records were annually reviewed, as required by the bylaws.
- The Fire District's Board did not contract for an independent audit of its records as required by law.
- Certain Treasury duties were improperly assigned to a professional service provider and third-party vendors had access to the Fire District bank accounts to withdraw electronic payments.
- The Village and Fire District did not file annual financial reports (AUDs) with the State Comptroller's Office in a timely manner.
- The Board did not adequately oversee the Clerk-Treasurer's work, audit claims before approving them for payment or require annual audits of the Clerk-Treasurer's records and reports.

6. Budgeting

- The Village's significant revenue and expenditure projections in the tentative budget were unreasonable.
- The Village's tentative budget included a tax levy which was above the limit established by law.
- The Village's Board did not comply with New York State Village Law, Section 5-506 (Village Law) when presenting the budgets.
- The Village's budget did not reflect realistic appropriations for fees each year.

5. Treasurer's Operations

- Controls are inadequate over receipts and disbursements as the Treasurer, without adequate oversight, was the only one who received, counted, deposited, and reported cash receipts and prepared, signed, reported and maintained a manual ledger of checks.
- The Board engaged the services of a contractor to assist the Treasurer with her duties. However, the contractor performed those duties without oversight by the Treasurer.

- The Village Treasurer did not accurately record and report Village financial transactions in a timely manner.
- The Village's former Clerk-Treasurer did not maintain accounting records using the modified accrual basis of accounting.
- The Village's former and current Clerk-Treasurer did not provide monthly financial reports of receipts and disbursements to the Board.
- The Village's Board engaged the services of a Certified Public Accountant (CPA) to perform duties that the Clerk-Treasurer was required to perform by New York State Village Law (Village Law) and General Municipal Law (GML).
- The Library's Treasurer did not maintain custody and control of their signature stamp and check signatory policies were not followed.

4. Purchasing/Procurement

- Fire District officials did not competitively bid a public works contract.
- Fire District officials did not always seek quotations for purchases under the bidding threshold.
- Fire District officials generally did not document their efforts to obtain competition for purchases.
- The Board did not establish policies or procedures for the procurement of goods and services.
- Village officials were unable to provide documentation to show that they obtained the required number of bids, quotes or request for proposals (RFPs) as required by the procurement policy.

3. Claims Processing

- Treasurer paid bills without prior review and approval from the Fire Company.
- The Board did not perform an adequate claims audit (did not audit individual claims before payment).
- Credit card payments were not approved by the Board as required by bylaws.
- Credit card charges were paid without sufficient supporting documentation.

2. Cash Receipts

- Fundraising activities lacked adequate records and reports and cash was not safeguarded.
- The Program Coordinator did not deposit all funds intact. The Coordinator held cash to pay vendors and reimburse staff who purchased incidentals for the program.
- The recreation attendant did not remit department cash collections for deposit in a timely fashion.
- The Board did not review the water and sewer re-levy list and the list of unpaid customer accounts.
- Village officials did not adequately segregate the Deputy Clerk-Treasurer's water and electric financial duties or provide oversight of their work. As a result, the Deputy had complete control over water and electric cash receipts and was able to make adjustments to customer accounts and delete transactions without proper oversight.
- The Board did not ensure there were adequate controls over department cash receipts. The attendant performed the majority of department bookkeeping and cash reconciliation functions with minimal oversight.

1. **Financial Operations/Management**
    - ♦ The Board did not properly establish reserves or establish a reserve fund policy.
    - ♦ The Board overestimated appropriations and transferred nearly the entire operating surplus to the reserve funds, leaving the Fire District with virtually no unrestricted fund balance.
    - ♦ Accounting records were not adequate to properly monitor the Village's financial condition and operations.
    - ♦ The Board did not annually review contractual revenues, resulting in unrealized revenue.
    - ♦ The Board did not develop a multiyear financial and capital plan, including a plan for reserves, to establish long-term objectives for funding long-term needs.
    - ♦ The Board was unable to provide documentation of required permissive referendums and legal notices.
    - ♦ The Fire Company's Directors did not submit an annual report on revenues and expenditures of foreign fire insurance tax proceeds or submit IRS Form 990 as required by law and the Company's bylaws.
    - ♦ The Treasurer did not provide sufficient oversight of the bookkeeper hired to account for the department's financial transactions.
    - ♦ The Board's budgets were incomplete and inaccurate. Also, appropriations were overestimated and transfers to reserves were not budgeted.
    - ♦ The Justice Court did not prepare monthly accountability reports and bank reconciliations.

IV. EMPLOYER TAX AND REPORTING GUIDANCE

A. NEW YORK STATE MINIMUM WAGE

The minimum wage rates for New York are scheduled to increase each year on December 31st until they reach $15.00 per hour. There are different minimum wage rates for different industries. Effective December 31, 2019, the New York State general minimum wage is increasing from $11.10 per hour to $11.80 per hour. The Long Island and Westchester general minimum wage rate will be $13.00 per hour. Information from New York State Department of Labor can be found at https://www.labor.ny.gov/home/

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

Form W-2 Reporting

Employee Copies – Must be postmarked by January 31, 2020.

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

Due Date for Electronic Filers – If you file your 2019 Form W-2 and Form W-3 with the Social Security Administration (SSA) electronically or in paper form, the due date is January 31, 2020. You must e-file if you are required to file 250 or more Forms W-2 or W-2c. A 30-day extension to file Form W-2 may be requested using Form 8809 and is no longer automatic. Even if you request and are granted an extension of time to file Forms W-2, you still must furnish Forms W-2 to your employees by January 31, 2020.

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. Mandatory Social Security and Medicare taxes apply to election workers not covered under a Section 218 Agreement in their State and who are paid $1,800 and $1,900 or more for 2019 and 2020, respectively. FICA is due on all wages, including the first $1,799 for 2019 and $1,899 for 2020 of the election workers wages if they exceed $1,800 for 2019 and $1,900 for 2020. If the employer anticipates the election worker exceeding the threshold, they may want to begin withholding FICA the first pay period.

Employment Tax Information – Detailed employment tax information (www.irs.gov) is provided 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 $2,100 and $2,200 or more for 2019 and 2020, respectively.

Incorrect Address on Employee's Form W-2
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 taxable wages, bonuses, tips, prizes and awards paid to employees during the year. Also include noncash payments and certain fringe benefits including but not limited to:
  - Certain fringe benefits such as taxable cost of group-term life insurance in excess of $50,000.
  - Taxable benefits from a Section 125 Plan if the employee chooses cash.
  - Certain scholarships and fellowship grants.
  - Nonqualified moving expenses and expense reimbursements.
  - The cost of accident and health insurance premiums for 2% or more shareholder-employees paid by an S corporation.

- Employee or employer (if includible) contributions to an Archer MSA.
- Payments for non-job-related educational expenses, unless they are excludable under the educational assistance programs.
- Employee or employer (if includible) contributions to a Health Savings Account.
- Employer contributions for qualified long-term care services to the extent that such coverage is provided through a flexible spending or similar arrangement.
- 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 $132,900 (for 2019).
- Total should not be more than $137,700 (for 2020).

Box 4 – **Social security tax withheld**

- 6.20% of amount reported in Box 3, not to exceed $8,240 for 2019 and $8,537 for 2020.

Box 5 – Medicare wages

- No wage base limit.

Box 6 – Medicare tax withheld

- 1.45% of amount reported in Box 5 (plus any additional Medicare tax).

Box 7 – Social security tips

Box 8 – Allocated tips

Box 10 – Dependent care benefits

- Include dependent care benefits under Section 125 and Section 129. Report all amounts paid or incurred including those in excess of the $5,000 exclusion in Boxes 1, 3 and 5 as income. If reimbursed in subsequent year for current year, it must be reported on Form W-2. The employer should report the *Fair Market Value* of the care in a daycare facility provided or sponsored by the employer.

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, not in box 1 of Form W-2.

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-HH below. (Do not enter more than four codes on each Copy A, use a separate Form W-2).
- 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 (enter codes using capital letter(s)):

  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) plan
  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 any governmental or nongovernmental Section 457(b) deferred compensation plan
  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
  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)
  P. Excludable moving expense reimbursements paid directly to a member of the U.S. Armed Forces
  Q. Non-taxable combat pay
  R. Employer contributions to an Archer MSA
  S. Employee salary reduction contributions under a Section 408(p) SIMPLE plan
  T. Adoption benefits. Also, include adoption benefits paid or reimbursed from the pre-tax contributions made by the employee under a section 125 plan.
  V. Income from the exercise of nonstatutory 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 a nonqualified deferred compensation plan that fails to satisfy section 409A
AA. Designated Roth Contributions under a section 401(k) plan
BB. Designated Roth Contributions under a section 403(b) plan
DD. Cost of employer-sponsored health coverage
EE. Designated Roth contributions under a governmental section 457(b) plan
FF. Permitted benefits under a qualified small employer health reimbursement arrangement
GG. Income from qualified equity grants under section 83(i)
HH. Aggregate deferrals under section 83(i) elections as of the close of the calendar year

Box 13 – Checkboxes

- Check all the boxes that apply.

  - Statutory employee
    Check this box for 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);
    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(b) plan).

  - Third-party sick pay
    Check this box only if you are a third-party sick pay payer filing a Form W-2 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 – Other

- If you included 100% of a vehicle's annual lease value in the employee's income, it also must be reported here or on a separate statement to your employee. You may also use this box 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), union dues and uniform payments.

Box 15 through Box 20

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

Form W-3 Reporting

A Form W-3 must be transmitted with copies of Form W-2 and filed by January 31, 2020. A 30-day extension to file may be requested using Form 8809 and is no longer automatic. 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
Direct Operations Center
Wilkes-Barre, PA 18769-0001

If you use "Certified Mail" to file, the zip code should be 18769-0002. If you use an IRS-approved private delivery service, add "Attn.: W-2 Process, 1150 E. Mountain Dr., and change the zip code to 18702-7997.

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 Form W-2s to the Social Security Administration. Keep undeliverable Form W-2s (employee copies) for four years demonstrating that you tried to deliver the Form W-2s, but could not. However, if the undelivered Form 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.

C. IRS 1099 MISCELLANEOUS FORM REPORTING

In general, Form 1099-MISC must be issued to all persons where payments for rents or services (including parts and materials), prizes and awards, and other income payments are $600 or more. Generally payments to a corporation do not have to be reported on Form 1099-MISC. Attorneys and medical and healthcare providers are issued a Form 1099-MISC regardless of the type of entity ($600 or more threshold still applies). The Form 1099-MISC must be filed with the IRS by January 31, 2020, along with a 1096 transmittal form, when you are reporting nonemployee compensation payments in box 7. Otherwise, file by February 28, 2020 if you are a paper filer and March 31, 2020, for e-filers. The recipient's copy must be postmarked by January 31, 2020.

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

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

New for 2020, use Form 1099-NEC to report nonemployee compensation rather than Form 1099-MISC. Due to the creation of this new form, Form 1099-MISC has been redesigned with some changes in reporting of income and the form's box numbers.

D. PARTNERSHIPS AND CORPORATIONS

LLC Filing fee

For tax years ending 2019, the LLC filing fee, which is based on the amount of New York source gross income for the tax year immediately preceding the tax year for which the fee is due, is required to be filed or before the 15th day of the third month following the close of your tax year. There is no extension time to file Form IT-204-LL or pay the fee.

Partnership and Corporation Due Dates for December 31 Year-End Filers

- Partnerships-March 16, 2020 with a possible six-month extension to September 15, 2020
- C Corporations-April 15, 2020 with a possible six-month extension to October 15, 2020
- S Corporations-March 16, 2020 with a possible six-month extension to September 15, 2020

For C Corporations with fiscal years ending on June 30th, the new due date rules signed into law from the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 will go into effect for returns with taxable years beginning after December 31, 2025 (2027 filing season).

E. FRINGE BENEFITS

All fringe benefits are taxable unless the law specifically excludes it. IRS Publication 15-B, *Employer's Tax Guide to Fringe Benefits* discusses these exclusions in detail. Below is a highlight of some of the more commonly encountered 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.

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 Fair Market Value of the Annual Lease 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 Fair Market Value of the Annual Lease or the Daily Lease Fair Market 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 IRS Publication 15-B) 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.

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. As per IRS rules an employer-provided vehicle is a vehicle provided to an employee for use in your trade or business, and for bona fide noncompensatory business reasons, you require the employee to commute in the vehicle. Under a special valuation rule, however, the commuting use of an employer-provided vehicle is valued at $1.50 per employee for each one-way 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 minimis personal use. Also, the employee cannot be a control employee.

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 Federal Government Executive Level V. For 2020 the level is $160,100. An employer can choose an alternative definition of a control employee as any highly compensated employee. A highly compensated employee for 2020 is anyone who either received more than $125,000 in pay the previous year or who owns 5% of the entity at any time during the current or previous year. Also, you can choose to ignore the first criteria of a highly compensated employee test (receiving more than $125,000 in pay the preceding year) if the employee was not also in the top 20% of earners with the organization for the preceding year. If based on the criteria above the employee is considered a control employee, the government must calculate the auto fringe benefit using the annual lease value.

3. Employee Benefits Accountable and Unaccountable Plans (See IRS Publication 463)

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.

4. 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.

5. Cell Phones

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 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.

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

V. IRS MILEAGE RATES

The amounts for the various deductible costs for use of a car will be effective January 1, 2020 and are as follows:

- The standard mileage rate for the cost of operating a car will decrease to 57.5 cents per mile for all business miles driven. The previous rate was 58.0 cents for 2019.
- The standard mileage rate for the use of a car when giving services to a charitable organization remains at 14 cents per mile.
- The standard mileage rate for use of your car for medical reasons will decrease to 17 cents per mile. The previous rate was 20 cents for 2019.
- The moving expense deduction is available only to active duty members of the Armed Forces, at 17 cents per mile for 2020. The previous rate was 20 cents per mile for 2019.

VI. NOT-FOR-PROFIT UPDATE

In February 2016, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2016-02, *Leases* (codified as Accounting Standards Codification ("ASC") Topic 842). The FASB issued this update to increase transparency and comparability among organizations by recognizing lease assets and lease liabilities on the balance sheet and disclosing key information about leasing arrangements. It was believed by many that previous lease accounting failed to meet the needs of users of financial statements because it did not always provide a faithful representation of leasing transactions. Topic 842 defines a lease as a contract, or part of a contract, that conveys the right to control the use of identified property, plant, or equipment (an identified asset) for a period of time in exchange for consideration. Control over the use of the identified asset means that the customer has both 1) the right to obtain substantially all of the economic benefits from the use of the asset and 2) the right to direct the use of the asset.

One major change that Topic 842 has brought is that most operating leases will now be shown on the lessee balance sheet. Under previous guidance, only capital leases, which are now referred to as "finance leases", were shown on the lessee balance sheet. The classification criteria for distinguishing between finance leases and operating leases are considerably similar to the classification criteria for distinguishing between capital and operating leases under the previous leases guidance. Because of this, the effect of leases in the Statement of Comprehensive Income and the Statement of Cash Flows is largely unchanged from previous GAAP.

Lessees will report a lease obligation and a corresponding right-of-use asset for both operating and finance leases, measured at the present value of lease payments. For finance leases, the lessee will also recognize interest on the lease liability separately from amortization of the right-of-use asset in the Statement of Comprehensive Income and classify repayments of the principal portion of the lease

liability within financing activities and payments of interest on the lease liability and variable lease payments within operating activities in the Statement of Cash Flows. For operating leases, the lessee will also recognize a single lease cost, calculated so that the cost of the lease is allocated over the lease term on a generally straight-line basis and classify all cash payments within operating activities in the Statement of Cash Flows. For short term leases (12 months or less), a lessee is permitted to make an accounting policy election by class of underlying asset not to recognize lease assets and lease liabilities. If this election is made, the lease expense for such leases should generally be recognized on a straight-line basis over the lease term. However, if an entity is reasonably certain that they will exercise renewal options, they may not qualify for the short-term lease exception.

The lessor accounting guidance is largely unchanged from previous guidance. Leases will remain to be classified as either sales-type, direct financing or operating leases for lessors. Key aspects of the lessor accounting are in line with the revenue recognition guidance in Topic 606, *Revenue from Contracts with Customers.*

While under previous guidance it was required for an entity to separate the lease components from the non-lease components, Topic 842 now provides more guidance on how to identify and separate components.

There are both qualitative and quantitative disclosures required by lessees and lessors to meet the objective of enabling users of financial statements to assess the amount, timing, and uncertainty of cash flows arising from leases.

The amendments in ASU No. 2016-02, *Leases* are effective for public business entities, not-for-profit entities that have issued, or are conduit bond obligors for, securities that are traded, listed, or quoted on an exchange or an over-the-counter market, and employee benefit plans that file financial statements with the U.S. Securities and Exchange Commission ("SEC"), for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. For all other entities, the amendments in this Update are effective for fiscal years beginning after December 15, 2020, and interim periods within fiscal years beginning after December 15, 2021. Early application is permitted for all entities.

In November 2016, FASB issued ASU No. 2016-18, *Restricted Cash* which addresses the diversity that exists in the classification and presentation of changes in restricted cash on the Statement of Cash Flows under Topic 230, *Statement of Cash Flows*. The amendments in ASU No. 2016-18 apply to all entities that have restricted cash or cash equivalents and are required to present a Statement of Cash Flows under Topic 230. The amendments are effective for public business entities for fiscal years beginning after December 15, 2017, and interim periods within those fiscal years, and for all other entities for fiscal years beginning December 15, 2018, and interim periods within fiscal years beginning after December 15, 2019.

ASU No. 2016-18 requires that a Statement of Cash Flows explain the change during the period in the total of cash, cash equivalents, and amounts generally described as restricted cash or restricted cash equivalents. Amounts generally described as restricted cash and restricted cash equivalents should be included with cash and cash equivalents when reconciling the beginning and end of period total amounts presented on the Statement of Cash Flows. ASU No. 2016-18 does not provide a definition of restricted cash or restricted cash equivalents.

In June 2018, FASB issued ASU No. 2018-08, *Clarifying the Scope and the Accounting Guidance for Contributions Received and Contributions Made.* The amendments in this Update should assist entities in (1) evaluating whether transactions should be accounted for as contributions within the scope of Topic 958, Not-for-Profit Entities, or as exchange transactions subject to other guidance and (2) determining whether a contribution is conditional. Distinguishing between contributions and exchange transactions determines which guidance the entity will apply. Guidance in Subtopic 958-605 should be followed for contributions. For exchange transactions, other guidance should be followed such as Topic 606, Revenue from Contracts with Customers.

This Update clarifies how an entity can determine whether a resource provider is participating in an exchange transaction by evaluating whether the resource provider is receiving value in return for the resources transferred based on the following:

1. A resource provider (including a foundation, a government agency, or other) is not synonymous with the general public. A benefit received by the public as a result of the assets transferred is not equivalent to commensurate value received by the resource provider.

2. Execution of a resource provider's mission or the positive sentiment from acting as a donor does not constitute commensurate value received by a resource provider for purposes of determining whether a transfer of assets is a contribution or an exchange.

There may also be instances in which the resource provider is not itself receiving commensurate value for the resources provided. An organization would determine whether a transfer of assets represents a payment from a third-party payer on behalf of an existing exchange transaction between the recipient and an identified customer, and if so, other guidance (such as Topic 606, Revenue from Contracts with Customers) would apply.

ASU No. 2018-08 also distinguishes between conditional and unconditional contributions. Under this ASU, a conditional contribution would arise if an agreement includes a barrier that must be overcome and either a right of return of assets transferred or a right of release of a promisor's obligation to transfer assets. These improved guidelines could result in more grants and contracts being accounted for as contributions than under current GAAP.

This Update includes a useful diagram which illustrates the process for determining whether a transfer of assets to a recipient is a contribution, an exchange transaction, or another type of transaction and whether a contribution is conditional.

For more information, visit the FASB's website at www.fasb.org.

Taxpayer Certainty and Disaster Tax Relief Act

Per the Tax Cuts and Jobs Act of 2017 (the TCJA), beginning January 1, 2018, certain employee benefits which were previously provided to employees' tax-free were considered taxable. Those benefits included expenses paid by an organization that were considered qualified transportation fringe benefits, expenses associated with any parking facility used to provide employee parking and expenses associated with an on-premises athletic facility. However, on December 20, 2019 the "parking tax" imposed under IRC Section 512(a)(7) upon enactment of the 2017 Tax Cuts and Jobs Act has been retroactively

repealed under the Taxpayer Certainty and Disaster Tax Relief Act. This Act repeals the unrelated business income tax on tax-exempt organization disallowed fringe benefits as if it never existed. Not-for-profits no longer owe this tax, and they will be owed a refund for amounts related to this tax that were reported and paid on Form 990-T over the past two years. The IRS has not yet issued any information regarding the refund process.

This Act also replaces the private foundation excise tax on investment income, which was a two-tier system of 1% and 2% with a flat rate of 1.39%, effective for tax years beginning after December 20, 2019.

Taxpayer First Act

The Taxpayer First Act, which was enacted July 1, 2019, requires tax-exempt organizations to electronically file information returns and related forms in tax years beginning after July 1, 2019. The IRS forms that are included in this mandate are, Form 990, *Return of Organization Exempt from Income Tax*; Form 990-PF, *Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation;* Form 8872, *Political Organization Report of Contributions and Expenditures* and Form 1065, *U.S. Return of Partnership Income* (if filed by a Section 501(d) apostolic organization).

Tax-exempt organizations that have previously paper-filed will receive a letter from the IRS informing them of the change. Filing deadlines vary by each form type.

VII. HEALTH CARE REFORM CHANGES

The Patient Protection and Affordable Care Act is designed to ensure that all Americans have access to quality affordable health care, and is intended to create transformation within the health care system necessary to contain costs in the future. Under the law, a new "Patient's Bill of Rights" will give Americans the ability to make informed choices.

A. INDIVIDUALS AND FAMILIES

1. Open Enrollment for the Health Insurance Marketplace began in 2013. The enrollment period for 2020 remains the same as in previous years and is from November 1, 2019 through December 15, 2019. Eligible individuals and families can enroll or gather information at www.HealthCare.gov.

2. If you itemize your deductions on Form 1040, Schedule A, *Itemized Deductions*, you are able to deduct certain medical and dental care expenses for yourself, spouse and dependents. As part of the Taxpayer Certainty & Disaster Tax Relief Act of 2019, for tax years beginning after December 31, 2018 and before January 1, 2021, taxpayers may deduct certain medical and dental care expenses that exceed 7.5% of their adjusted gross income.

3. Remaining in 2019 there is the premium tax credit for the insurance premiums obtained through the Health Insurance Marketplace. This tax credit was designed to make health insurance more affordable. There are income limitations on qualifying for the credit. Your household income must be between 100% - 400%

of the Federal Poverty Level ("FPL") in order to qualify for the credit. The credit can be claimed in advance or with your filed tax return. If an advanced payment is received you are required to file Form 1040 in order to reconcile the advanced payment with the credit that you are actually entitled to, and this may result in having to pay back part of or all of the advanced payment received. This credit remains for 2020 with indexing adjustments made by the IRS.

4. Starting in 2014 and continuing to 2018, you and your family were required to have minimum essential health care coverage or had an exemption for coverage. If one did not have either, a penalty payment was required to be made with your tax return. For tax years 2019 and beyond, the penalty no longer applies as Section 11081 of the Tax Cuts and Jobs Act of 2017 sets the penalty at $0 for tax years 2019 and beyond. However, some states have their own individual health insurance mandates which still require you to have qualifying health coverage or pay a penalty fee with your state taxes. These states are California, Vermont, Massachusetts, New Jersey, and the District of Columbia. However, California and Vermont's mandates do not take effect until 2020.

5. The IRS has issued the following forms that taxpayers need to maintain for their records or file with their tax returns:

   a. Form 1095-A – Health Insurance Marketplace Statement: Marketplaces must provide this form to all enrollees by January 31st following the year of coverage.
   b. Form 1095-B – Health Coverage: Insurers and self-funded plans must provide this form to each enrollee.
   c. Form 1095-C – Employer-Provided Health Insurance Offer and Coverage: Applicable large employees must provide this form to each enrollee.
   d. Form 8962 – Premium Tax Credit
   e. Form 8965 – Health Coverage Exemptions

6. Health Savings Account ("HSA")

   a. The annual contribution limit for HSA plans for 2019 is $3,500 for individuals and $7,000 for an individual with family coverage. These contributions are not subject to tax. The contribution limits will be increasing for 2020 to $3,550 for individuals and $7,100 for an individual with family coverage.

   b. HSA holders 55 and older, can save an additional $1,000 bringing the single amount to $4,500 and $8,000 for a family in 2019.

   c. High deductible health plans allow for an annual deductible that is no less than $1,350 for self-only coverage or $2,700 for family coverage for 2019. These amounts remain unchanged from 2018. Annual out of pocket costs cannot exceed $6,750 for self-only coverage (an increase of $100 from 2018) or $13,500 for family coverage (an increase of $200 from 2018).

7. Flexible Spending Arrangement ("FSA")

    a. The annual contribution limit for an FSA for 2019 is $2,700 and increases to $2,750 in 2020. Any contribution to the health FSA plan by an employer is in addition to the amount elected by the employee.

    b. If there is a balance in your FSA plan at the end of the year, your plan may have one of the following features:

        1. Grace period extension - FSA plans are permitted to allow for a maximum grace period of 2 months and 15 days following the end of the plan year for unused contributions to be used against expenses incurred in the subsequent plan year. Any funds remaining after the grace period extension will be forfeited.

        2. Carryover – FSA plans can allow participants to roll forward up to $500 of amounts not utilized to the subsequent year. This rollover will not affect the annual contribution limit described above. Any remaining funds in excess of the $500 will be forfeited.

    c. Please note that the FSA Plan can have only have one of the features above and not both. The FSA Plan is not required to offer either one.

B. <u>EMPLOYERS</u>

1. In 2016, the Protecting Affordable Coverage for Employees (PACE) Act gave states the ability to define "small-group employer" as either less than 51 employees or less than 101 employees. Back in January of 2016, New York State chose to define small employers as 100 or fewer full-time equivalent employees which will make them eligible to purchase affordable insurance through the Small Business Health Options Program ("SHOP").

2. Employers are required to report the value of coverage under an employer-sponsored group health plan on box 12 of the W-2 with a code of "DD". Employers that provide "applicable employer-sponsored coverage" under a group health plan are subject to the reporting requirements. The Internal Revenue Service has stated that any expansion of the reporting rules or ending of the transitional relief which continues for the 2019 tax year will only apply for calendar years that start at least six months after the new rules are issued. See http://www.irs.gov/uac/Form-W-2-Reporting-of-Employer-Sponsored-Health-Coverage for more information.

3. Small business owners could be eligible for the Small Business Health Care Tax Credit if they purchased coverage through SHOP and pay at least 50% of the full-time premiums on behalf of employees enrolled in a qualified health plan and have less than 25 full-time equivalent employees with average wages of $50,000 (adjusted for inflation) or less. An employer may claim the credit for no more than two consecutive taxable years, beginning with the first taxable year in or after 2014

in which the eligible small employer attaches a Form 8941, *Credit for Small employer Health Insurance Premiums*, to its income tax return.

4. Employers that self-insure may be required to pay a fee to fund the Patient Centered Outcomes Research Fund, see https://www.irs.gov/affordable-care-act/patient-centered-outcomes-research-trust-fund-fee-questions-and-answers for more information.

5. Continuing in 2019, all employers, regardless of size, that provide self-insured health coverage to employees must file an annual return reporting certain information for each employee covered.

6. Employers with 50 or more full time employees (including full-time equivalents) could be subject to a penalty fee if adequate affordable coverage is not offered to full time employees and one or more of these employees get a premium tax credit.

For more information, visit https://www.healthcare.gov.

VIII. 1040 AND NEW YORK STATE CONSIDERATIONS

The following is a summary of the new tax law changes:

A. TAX RATE BRACKETS

In 2019 the 37% tax bracket applies to taxable income that exceeds $510,300 for single and head of household ("HOH") taxpayers, $612,350 for married individuals filing jointly ("MFJ") and surviving spouse, and $306,175 for married individuals filing separate ("MFS"). All of the other tax brackets have been adjusted for inflation.

Workers with wages and other compensation in excess of $250,000 for MFJ, $125,000 for MFS, and $200,000 for all others are subject to the additional Medicare tax of .9%. Employers are obligated to withhold the additional tax beginning in the pay period when wages exceed $200,000 for the calendar year. The employer is obligated regardless of the filing status or income from other sources. If the taxpayer does not owe the additional withholding for Medicare, they can claim a credit on their 2019 income tax return.

B. PREFERENTIAL RATES FOR CAPITAL GAINS AND QUALIFIED DIVIDENDS

Unchanged for 2019, qualified dividends and long-term capital gains can avoid tax totally under the 0% capital gains rate, or be subject to capital gains rates of 15% or 20%. The capital gains rate depends on taxable income, how much of the taxable income consists of qualified dividends and eligible long-term gains, and filing status. The 20% capital gain rate applies to single taxpayers with taxable income over $434,550, MFJ taxpayers with taxable income over $488,850, and for head of household taxpayers with income over $461,700.

C. NET INVESTMENT INCOME TAX

The net investment income tax ("NIIT") is still applicable for 2019. This affects income tax returns of taxpayers who have net investment income and have modified adjusted gross income ("MAGI") over the following thresholds: $250,000 for MFJ or surviving spouse, $125,000 for MFS, $200,000 for single, and $200,000 for head of household.

If modified adjusted gross income ("MAGI") exceeds the threshold, a 3.8% tax applies to the lesser of the net investment income or the excess of MAGI over the threshold.

D. PERSONAL EXEMPTIONS AND ITEMIZED DEDUCTIONS

The personal exemption continues to be eliminated for 2019. This elimination modifies the level of income which a taxpayer must file a return. Also continuing for 2019 for most taxpayers, the filing requirement will be based solely upon the standard deduction available to them.

Following are the 2018 changes to itemized deductions that continue for 2019:

- Deduction for state and local income taxes, personal property taxes and real estate taxes will be limited to $10,000 in total.
- Mortgage interest is allowed on new mortgages up to $750,000. Interest on the portion of the mortgage not used to buy, build or remodel your personal residence is not allowed.
- Mortgage insurance premiums paid or accrued in connection with debt that qualifies as acquisition indebtedness is deductible for 2019 and 2020 as qualified residence interest.
- Charitable donations of cash will be limited to 60% of AGI in 2019.
- All miscellaneous deductions formerly subject to the 2% threshold will no longer be available on your federal tax return. Some examples of these expenses are employee business expenses, tax preparation fees, investment expenses. However, these expenses may be available on your state tax return.
- Casualty losses will now only be allowed with regard to presidentially declared disaster areas.
- Gambling losses remain deductible as a miscellaneous itemized deduction not subject to the 2% limitation.
- The overall itemized deduction limitation of 3% of the excess of adjusted gross income over the threshold amount has been suspended.

E. PATIENT PROTECTION AND AFFORDABLE CARE ACT

In effect for 2019, the Tax Cuts & Jobs Act repealed the tax on individuals that fail to carry minimum health coverage for themselves and their dependents, although there are still some states (such as MA, NJ and DC) that still have health insurance mandates and may apply penalties for not having coverage. Individuals and families are still able to acquire coverage through the Patient Protection and Affordable Care Act market place. Individuals with marketplace coverage may be entitled to the §36B premium assistance tax credit when filing

their 2019 tax return. If a taxpayer received an advanced payment of the credit, they are required to file a 2019 Form 1040.

For 2019 the §36B premium assistance tax credit is available for taxpayers who meet certain household income criteria.

Taxpayers should receive one of the following forms which pertain to healthcare coverage and these forms should be utilized when filing your 2019 returns:

- Form 1095-A Health Insurance Marketplace Statement
- Form 1095-B Health Coverage (sent out on or before March 4, 2019)
- Form 1095-C Employer-Provided Health Insurance Offer and Coverage

F. STANDARD DEDUCTIONS

The standard deduction for 2019 increases to $24,400 for MFJ and surviving spouse, $18,350 for head of household, or $12,200 for all other taxpayers. The additional standard deduction for being 65 or older or blind is $1,650 if single or head of household ($3,300 if 65 and blind). If MFJ, the additional standard deduction is $1,300 if one spouse is 65 or older or blind, $2,600 if both spouses are at least 65 (or one is 65 and blind).

G. DEDUCTION FLOOR FOR MEDICAL EXPENSES

Effective for 2019, the floor for deducting medical expenses as an itemized deduction remains at 7.5% of AGI for all taxpayers.

H. SOCIAL SECURITY WAGE BASE

For 2019, the tax rate on the employee portion of social security is 6.2% on wages up to $132,900; therefore, social security tax withholdings will not top $8,240. Medicare tax of 1.45% is withheld from all wages regardless of amount.

Self-employment taxes of 15.3% apply to earnings up to $132,900 after the earnings are decreased by 7.65%. The 15.3% rate equals 12.4% for social security plus 2.9% for Medicare. If net earnings are in excess of $132,900, the 2.9% Medicare rate applies to the total amount. One half of the self-employment tax may be taken as an above the line deduction. The maximum self-employment social security tax is reached at $16,480.

It should be noted, that if earnings exceed the applicable threshold, net self-employment earnings could be subject to the .9% additional Medicare Tax – see Tax Rate Brackets.

I. IRA AND ROTH IRA CONTRIBUTION PHASE-OUT

For 2019, the contribution limit for traditional IRAs and Roth IRAs is $6,000 or $7,000 for those age 50 or older. For 2020, the contribution limit will remain the same with an additional $1,000 if you are age 50 or older. The contribution deduction for traditional IRAs is phased-out for active plan participants with MAGI between $65,000 and $74,999 for a single person or head of household, or between $104,000 and $123,999 for MFJ. The phase-out range is $196,000-$205,999 for a spouse who is not an active plan participant and who files jointly with a spouse who is an active plan participant.

J. IRA CHARITABLE CONTRIBUTION

The IRA charitable contribution gives the taxpayer the ability to distribute to a charity directly from an IRA for an individual over the age of 70½ without including the distribution in income or deducting the amount as a charitable contribution. This distribution is taken into account when determining the taxpayers required minimum distribution and is a permanent rule by the IRS.

K. 529 PLANS

Continuing for 2019, all 529 plan savings may be used toward elementary or secondary public, private or religious school tuition. There is a $10,000 limitation for elementary, middle or high school expenses.

L. DEPRECIATION

The maximum §179 deduction allowed is $1,020,000 for qualifying property placed in service in 2019, subject to a limitation based upon the qualified assets placed into service. For 2019, this threshold amount is $2,550,000. The §179 deduction also imposes an income limitation upon the deduction.

Bonus depreciation remains at 100% for 2019 through 2022. Bonus depreciation allows a taxpayer to take a deduction in the year that the acquired asset is placed in service. Continuing for 2019, property eligible for bonus depreciation was expanded to include used property. Bonus depreciation is mandatory unless you elect out of it.

M. IRS MILEAGE ALLOWANCE

The IRS standard business mileage rate for 2019 is 58 cents a mile. The medical and moving expense mileage rate deduction is 20 cents a mile. For charitable volunteers, the mileage rate is 14 cents a mile. The deduction for moving expenses is only available for active duty members of the Armed Forces.

N. ALTERNATIVE MINIMUM TAX

The 2019 alternative minimum tax (“AMT”) exemptions are increased to $111,700 for MFJ and surviving spouse, $71,700 for single and head of household, $25,000 for estates and trusts, and $55,850 for MFS. The 2019 AMT exemptions phase-out begins at $1,020,600 for MFJ and surviving spouse, $510,300 for all others.

O. ELIGIBILTIY FOR SAVER’S CREDIT

The saver’s credit is 50%, 20% or 10% of your retirement plan or IRA or ABLE account contributions depending on your adjusted gross income. The maximum amount of the credit is $2,000. Credits are not allowed when AGI reaches $32,000 for single taxpayers, $48,000 for head of household and $64,000 for MFJ and surviving spouse.

P. ADOPTION CREDIT

For adoptions finalized in 2019, taxpayers will see an increase in the credit and exclusion amounts for the adoption credit. The amount in 2019 will be increased to $14,080.

Q. 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 2019 (subject to the 7.5% of AGI floor) is $420 if you are age 40 or younger at the end of 2019; $790 for those age 41 through 50; $1,580 for those age 51 through 60; $4,220 for those age 61 through 70; and $5,270 for those over age 70.

R. FOREIGN EARNED INCOME AND HOUSING EXCLUSIONS

The foreign earned income exclusion for 2019 is $105,900. In addition, the housing expense limitation to use in calculating your maximum housing exclusion is generally $31,770. However, the housing expense exclusion is based on locality, so in some cases there will be adjustments to the $31,770 used to calculate the final housing exclusion.

S. REPORT OF FOREIGN BANK AND FINANCIAL ACCOUNTS ("FBAR")

The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 provides, for tax years beginning after December 31, 2015, the TD-F-90-22.1 (Fin Cen Report 114) "Report of Foreign Bank and Financial Accounts (FBAR)" must be electronically filed to the Treasury Department on or before April 15th with an automatic extension of six months. All US persons who have a financial interest in or signature authority over at least one foreign account and the aggregate value of the accounts exceeds $10,000 at any time during the year must file a FBAR. They are filed separate from your income tax return. The willful failure to file a FBAR can carry a penalty equal to the greater of $100,000 or 50% of the highest balance in the account, for each violation.

T. FIRST-TIME HOMEBUYER'S CREDIT

The first-time homebuyer's credit, for homes purchased after April 8, 2008 and before January 1, 2009 has to be recaptured over a 15-year period. The 15-year period began in 2010. For home purchases in 2009 and 2010 there is no 15-year repayment requirement. In general, if your home stops being your main home or you sell it, you may need to repay the credit in full. There are some exceptions to this rule.

U. ANNUAL EXCLUSION FOR GIFTS

With regards to gift taxes, the per-donee exclusion for gifts of present interest is $15,000, for 2019 and 2020.

V. CHILD TAX CREDIT

The child tax credit remains the same for 2019 at $2,000 per child and the level the credit begins to phase-out for MFJ is $400,000 and $200,000 for all others. Of this amount up to $1,400 is refundable.

W. DEPENDENT CREDIT

Continuing for 2019, taxpayers are eligible for a non-refundable $500 credit for each dependent who is not a qualifying child under age 17.

X. GIFT TAX AND ESTATE TAX EXEMPTION

For 2019 gift tax and estate tax purposes, the basic exemption amount is $11,400,000 for federal taxes which will increase to $11,580,000 for 2020. The top rate remains at 40% for 2019.

Y. EDUCATION CREDITS

The maximum credit allowed under the American Opportunity Credit is $2,500 per student for all taxpayers except MFS, who do not qualify for the credit. For 2019, the credit starts to phase out at $160,000 for MFJ filers and $80,000 for all other qualifying taxpayers.
The maximum credit allowed under the Lifetime Learning Credit is $2,000 per return for all taxpayers except MFS, who do not qualify for the credit. For 2019, the credit starts to phase out at $116,000 for MFJ filers and $58,000 for all other qualifying taxpayers.

For 2019, the above-the-line $4,000 maximum deduction for qualified tuition and related expenses for higher education is back and goes through January 1, 2021.

Z. SOLAR CREDITS

2019 is the last year you are eligible for the 30% federal tax credit for solar installations purchased prior to December 31, 2019. For 2020, the tax credit decreases to 26%. If you purchase or lease solar energy system equipment you are also eligible for a New York State credit equal to 25% of your qualified solar energy system equipment expenditures with a maximum amount of $5,000.

AA. IDENTITY THEFT ISSUES

The IRS, states, and tax industry have joined together to form the Security Summit to enact new safeguards to combat tax-related identity theft. Many of these safeguards will be invisible to the taxpayer, but will enable them to continue the fight against this type of crime.

Publication 5027, Identity Theft Information for Taxpayers, and Publication 4524, Security Awareness for Taxpayers, are accessible on the IRS website for further information on how to protect yourself from identity theft and steps to take if your identity has been stolen.

The IRS will continue to have available Form 14039, *Identity Theft Affidavit* that taxpayers who are actual or potential victims can file. This form will allow the IRS to flag the account for review of any suspicious activity.

A new pre-screening procedure for suspicious returns has been adopted by the IRS. If any suspicion arises, the IRS will send a Letter 5071C or Notice CP01B to the taxpayer requesting that they visit https://www.irs.gov/identity-theft-fraud-scams/idverify or call 1-800-830-5084 within 30 days to verify that the tax return filed was the taxpayers.

If your identity has been stolen and a fraudulent return filed in your name, the IRS will create an Identity Protection Personal Identification Number (IP PIN) to prevent any further fraudulent activity from occurring. This IP PIN is a six-digit number used to file a taxpayer's federal tax return. In addition, the IRS will also invite taxpayers where the IRS has identified certain indicators of identity theft on their returns to voluntarily opt into the IP PIN program.

BB. NYS DRIVER LICENSE REQUIREMENT

Continuing for the tax year 2019, New York State is requiring taxpayers to provide driver license or state-issued ID (non-driver ID) information for their electronically–filed personal income tax returns as an additional verification device to deter fraud along with an upgrade on their protocols to better protect the taxpayer's information.

CC. THE SETTING EVERY COMMUNITY UP FOR RETIREMENT ENHANCEMENT ("SECURE") ACT AND ITS IMPACT ON RETIREMENT PLAN PROVISIONS

The SECURE Act passed in December 2019 and includes many reforms that are designed to increase access to workplace retirement plans and expand retirement savings. The legislation includes policy changes that impact defined contribution plans, defined benefit plans, as well as individual retirement accounts and 529 plans, many of which take effect January 1, 2020. Below are some of the key changes incorporated in the SECURE Act and how they will affect both individuals, employers, and plan sponsors.

Individuals:

- The age at which participants must begin taking required minimum distributions (RMDs) has been increased to 72 (previously was 70 ½). This applies to participants who will attain age 70 1/2 after December 31, 2019, and applies to both qualified plans and individual retirement accounts (IRAs).

- Effective for taxable years beginning after December 31, 2019, individuals can now contribute to an IRA at any age. Previously, individuals were prohibited from contributing after age 70 1/2.

- During a one-year period following the birth or adoption of a child, individuals may withdraw up to $5,000 from a retirement program, penalty free. This includes IRAs, 403(b) plans, 457 plans and 401(a) plans and is effective for plan years beginning after December 31, 2019.

- Individuals who participate in 529 Plans may withdraw up to $10,000 annually, tax-free, for the repayment of student loans.

Employers and Plan Sponsors:

- Small employers who start a tax-qualified retirement plan are eligible for a tax credit up to a maximum of $5,000 (previous maximum was $500) depending on the number of employees. This change will be effective for employer taxable years beginning after December 31, 2019.

- Small employers who create a 401(k) plan or SIMPLE IRA plan and utilize automatic participant enrollment will be eligible for an annual tax credit up to $500. This provision will be effective for employer taxable years beginning after December 31, 2019.

It is important to note that employers may have to make amendments to their current plan documents to allow their plan participants to take advantage of these changes in 2020.

CORPORATE TAX CHANGES:

Major corporate tax changes took effect for years beginning on or after January 1, 2019. The following is a summary of some of the key changes:

- C-Corporations will continue to have a flat tax rate of 21% on all taxable income.
- Net operating losses for C-Corporations will only be able to offset 80% of taxable income and the carry back of losses is eliminated, but the carry forward is now indefinite. Losses created prior to 2018 will be governed by the prior rules.
- The use of business losses of noncorporate taxpayers is restricted to $250,000 for unmarried taxpayers and $500,000 for married taxpayers.
- Every business is subject to a limited deduction for interest expense equal to the sum of the taxpayer's business interest income, 30% of the adjusted taxable income of the business, and the taxpayer's floor plan financing interest.
- The deduction for employer provided meals that were previously 100% deductible under the de minimis rules are now subject to the 50% limitation.
- For 2019 there is no deduction allowed for amounts paid for entertainment expenses.
- Eligible employers are entitled to a credit for paid family and medical leave ranging from 12.5% to 25% of wages paid to qualifying employees while on family or medical leave and are being paid at least 50% of their regular wage amount. The credit applies for qualifying wages paid before January 1, 2020.
- The alternative minimum tax no longer applies to corporations.
- Qualified Business Income Deduction (199A Deduction):
  - A special 20% deduction will apply for certain business income reported on a person's individual return. This includes income from qualified businesses.
  - This deduction is available to sole proprietors (Schedule C), real estate rental income (Schedule E), Trust and Estates, Partnerships and S-Corporations.
  - The deduction is subject to some limitation rules and in general will not be allowed for most professions or consulting businesses, unless the taxpayer's total income is under $157,500 for single and $315,000 for MFJ taxpayers.

NEW DEVELOPMENTS, YEAR END UPDATE AND 1040 CONSIDERATIONS JANUARY 2020

PREPARING FOR 2020

INDIVIDUAL TAXES:

The following is a summary of some of the key changes for 2020.

Tax Rate Brackets

The tax brackets for 2020 will remain the same as 2019: 10%, 12%, 22%, 24%, 32%, 35% and 37%. The top rate will apply if taxable income exceeds $518,400 for single and head of household taxpayers, $622,050 for MFJ. All of the tax brackets will be adjusted for inflation.

Standard Deductions

The standard deduction for 2020 will be $24,800 for MFJ taxpayers, $18,650 for head of household, or $12,400 for single taxpayers.

Alternative Minimum Tax

For 2020, AMT exemptions will be increased to $113,400 for MFJ taxpayers and $72,900 for single while the phaseouts will be increased to $1,036,800 for MFJ taxpayers and $518,400 for single taxpayers.

Annual Exclusion for Gifts

With regards to gift taxes, the per donee exclusion for gifts of present interest remains at $15,000 for 2020.

IRS Mileage Allowance

The IRS standard business mileage rate for 2020 is 57.5 cents a mile. The medical expense deduction is 17.0 cents a mile.

Divorce

For divorce agreements entered into during 2019 and thereafter, alimony payments will not be deductible by the payor and the corresponding income to the payee is no longer includible in income.

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.