

Law Practice Management & Technology Section &
New Lawyer Division
PRMCLE Meeting
Tuesday, September 29, 2015

11:45 AM – Noon

Sign In/Lunch

11:55 AM – Noon

Welcome/Introductions
Joseph F. Emmerth IV, *Chair*
Bryan Sims, *Vice Chair*

Noon – 1:00 PM

Program
Accounting for Non-Accountants: Professional Standards, Licenses
and Credentials

James F. Schultz

Jim has 30 years of experience in business valuations, litigation support consulting services, expert witness testimony, real estate, and financial advisory services. Jim's valuation expertise includes estate and gift, sale and/or purchase of interests in closely held entities, cost allocation for acquisition purposes, fair value analysis, S corporation elections and litigation related matters. His valuations cover industries including manufacturing, real estate, wholesale distribution, healthcare, investment partnerships, professional service and retail.

Next Meeting- October 20, 2015- ARC

DCBA
DELAWARE COUNTY BAR ASSOCIATION
Since 1929

Accounting for Non-Accountants: Professional Standards, Licenses, and Credentials

Illinois Continuing Legal Education

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Agenda

Today we will discuss:

- Accounting governing bodies
- Compilations, reviews, and audits
 - Differences between these engagements
- Professional Standards for Certified Public Accountants
 - Overview
 - Selected accountants' liability and accounting malpractice standards
- Selected licenses and credentials

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Governing Bodies

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- The AICPA
 - The FRF for SMEs™ accounting framework has been developed by the AICPA FRF for SMEs Task Force (task force) and the staff of the AICPA as a special purpose framework for small- and medium-sized entities. It is a self-contained financial reporting framework not based on accounting principles generally accepted in the United States of America (GAAP).
 - Special purpose frameworks, with the exception of the contractual basis of accounting, are commonly referred to as other comprehensive bases of accounting or OCBOA.

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- The American Institute of Certified Public Accountants (AICPA)
 - Develops standards for audits of private companies and other CPA services
 - Provides educational guidance materials to its members
 - Monitors and enforces compliance with the profession's technical and ethical standards
- Committee of Sponsoring Organizations of the Treadway Commission (COSO)
 - Formed in 1985 to sponsor the National Commission on Fraudulent Financial Reporting, an independent private-sector initiative which studied the causal factors that can lead to fraudulent financial reporting
 - In 1992, COSO issued the *Internal Control, Integrated Framework* that serves as the primary criterion for evaluating the quality control of a company's internal control system

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- Accounting Standard Setting Organizations
 - Examples of accounting standard setters include:
 - FASB (Financial Accounting Standards Board)
 - GASB (Government Accounting Standards Board)
 - IASB (International Accounting Standards Board)
- State Boards of Accountancy
 - CPAs are licensed by state boards of accountancy, which are charged with regulating the profession at the state level
- The U.S. General Accounting Office (GAO)
 - The GAO is the nonpartisan audit, evaluation, and investigative agency for Congress. Congress has delegated to the GAO the responsibility for developing auditing standards for governmental audits
- The Court System
 - The court system acts as a quality control mechanism for the practice of auditing

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Compilations, Reviews, and Audits

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Typical CPA Services

- **Compilation** – No assurance that the compiled financial statements are free of material misstatement
- **Review** – Limited assurance that the reviewed financial statements do not require any material modifications
- **Audit** – Positive assurance about whether the audited financial statements are free of material misstatement, whether caused by error or fraud
- **Tax** – No assurance
- **Consulting** – Engagement specific
- **Trustee and Fiduciary** – Fiduciary Duty

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Differences between compilations, reviews, & audits

Item	Compilation	Review	Audit
<i>Objective</i>	To assist management in presenting financial information in the form of financial statements	To obtain limited assurance that there are no material modifications that should be made to the financial statements	Analysis of financial statements taken as a whole
<i>Level of Assurance Obtained by the Accountant/Auditor that the Financial Statements Are Not Materially Misstated</i>	None	Limited	High, but not absolute
<i>Performance of Inquiry and Analytical Procedures?</i>	No	Yes	Yes
<i>Relevant Professional Standards</i>	SSARS (ARs)	SSARS (ARs)	SAS (AUs)

Source: "What is the Difference Between a Compilation, a Review and an Audit?" as published on the AICPA website:
<http://www.aicpa.org/pressroom/pressreleases/PractitionerSection/Resources/KeepingUp/DownloadableDocuments/Brochure%20Customizable-%20Difference%20between%20Comp%20Reviews%20Audits.pdf>

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Compiled Financial Statements

- A compilation represents the most basic level of service CPAs provide with respect to financial statements
- In performing a compilation, a CPA must comply with certain requirements of professional standards, including:
 - Have knowledge of the client and the client's industry and applicable accounting principles
 - Have a clear understanding with the client as to the services to be provided
 - Read the financial statements to determine whether there are any obvious departures from GAAP (or, in some cases, Other Comprehensive Basis of Accounting used by the entity) - OCBOA
- The CPA might be responsible for potentially inaccurate information
 - If the CPA gains knowledge that the financial statements contain information that on its face are incorrect or inconsistent, the CPA is required to consider the effects on the financial statements as a whole

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Compiled Financial Statements

- Upon completion, the CPA issues a compilation report on the financial statements stating the CPA has not audited or reviewed the accompanying financial statements and, accordingly, does not express an opinion or provide any assurance about whether the financial statements are in accordance with GAAP
 - This is known as the expression of "no assurance"
- Compilations are commonly performed for entities at the request of banks or financial institutions

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Reviewed Financial Statements

- In a review engagement, a CPA performs procedures designed to accumulate evidence sufficient to provide a reasonable basis for expressing limited assurance that the financial statements do not require any material modifications
- Review evidence is accumulated by performing inquiry and analytical procedures
- Upon completion, the CPA issues a review report stating:
 - A review has been performed in accordance with AICPA professional standards
 - A review has more limited scope than an audit
 - The CPA did not become aware of any material modifications that should be made to the accompanying financial statements in order for them to be in conformity with GAAP
- This is known as the expression of "limited assurance"

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Audited Financial Statements
<ul style="list-style-type: none">• Audits are the highest form of a CPA attestation engagement• The purpose of an audit is the expression of an opinion on the fairness with which the financial statements present, in all material respects, the financial position, results of operations, and cash flows in conformity with GAAP• In addition to those procedures performed in compilation and review engagements, the CPA performs verification and substantiation procedures in an audit• Verification and substantiation procedures may include:<ul style="list-style-type: none">– Direct correspondence with creditors or debtors to verify details of amounts owed– Physical inspection of inventories or investment securities– Inspection of minutes and contracts– Detailed testing of account balances and transactions
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Audited Financial Statements
<ul style="list-style-type: none">• In an audit, the CPA also gains a knowledge and understanding of the entity's system of internal control• The auditor's standard report states that the financial statements present fairly, in all material respects, an entity's financial position, results of operations, and cash flows in conformity with GAAP<ul style="list-style-type: none">– Known as the expression of "positive assurance"
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Audit vs. Review
<ul style="list-style-type: none">• Significant differences between the objectives of an audit in accordance with Generally Accepted Auditing Standards (GAAS) and objectives of a review in accordance with Statements on Standards for Accounting and Review Services (SSARS)<ul style="list-style-type: none">– The objective of an audit is to obtain a high level of assurance about whether the financial statements as a whole are free of material misstatement thereby enabling the auditor to express an opinion on whether the financial statements are presented fairly, in all material respects– A review does not provide a basis for the expression of such an opinion because reviews are limited to the CPA performing inquiry and analytical procedures and do not require certain other procedures ordinarily performed during an audit (e.g., obtaining an understanding of the entity's internal control, assessing fraud risk, etc.)– A review may bring to the CPA's attention significant matters potentially affecting the financial statements, but it does not provide assurance that the CPA will become aware of all significant matters that might have been disclosed in an audit
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Information Reliance

- In preparing or signing a tax return, a CPA may in good faith rely, without verification, on information furnished by the taxpayer or by third parties
- However, a CPA should not ignore the implications of information furnished and should make reasonable inquiries if the information furnished appears to be incorrect, incomplete, or inconsistent either on its face or on the basis of other facts known to the member
- Further, a member should refer to the taxpayer's returns for one or more prior years whenever feasible

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Professional Standards

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The "Double Edged Sword"

- Professional standards may be a "double-edged sword" for CPAs
 - They can proactively define the standards of care for engagements
 - They may also be the yardstick by which a professional is measured in the event of a litigation
- Many accounting standards require a CPA to exercise his/her professional judgment in performing services
- In an audit, professional judgment should be documented each time it is exercised along with any information relied upon in forming the judgment
 - For example, AU 316 (*Consideration of Fraud in a Financial Statement Audit*) states auditors should "use professional judgment in deciding" whether representations made by management should be corroborated by additional inquiries
 - If an auditor decides to rely on management's representations, the rationale for this decision should be documented

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Professional Standards

- In an audit, professional standards require certain procedures with respect to fraud including:
 - Inquiries of management
 - Does it have knowledge of fraud or suspected fraud?
 - Have there been allegations of fraud or suspected fraud?
 - Its understanding of fraud risks
 - Programs and controls established to mitigate fraud risks
 - Control over multiple locations
 - Communications to employees about business practices and ethical behavior
 - Whether management has reported to the audit committee the nature of the company's internal control
 - Inquires of audit committee, internal audit function, and others should include their views about risks of fraud and their knowledge of any fraud or suspected fraud
 - Engagement team discussion regarding the entity's susceptibility to fraud

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Professional Standards

- The importance of exercising professional skepticism
- Considering results of analytical procedures in planning the audit
- Considering fraud risk factors
 - Motive
 - Opportunity
 - Rationalization
- Analysis of other information
 - Discussions among audit team members
 - Inspection of interim financial statements
 - Consideration of identified inherent risks
- Identifying risks that may result in a material misstatement due to fraud
 - Are these risks related to specific accounts, assertions, or more pervasively to the financial statements as a whole?

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Changing Standards

- Standards change over time
 - Need to consider the standards in place when service is performed
 - May be different today
- Example: Dating of the Independent Auditor's Report

Pre December 15, 2006

 - "Generally, the date of completion of the field work should be used as the date of the independent auditor's report"

Post December 15, 2006

 - "The auditors report should not be dated earlier than the date on which the auditor has obtained sufficient appropriate audit evidence to support the opinion"

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Audits of Government and Nonprofit

- Yellow Book standards apply to:
 - State and local governments
 - Entities that receive federal financial assistance or administer federal programs
 - OMB Circular A-133 applies to Single Audits
 - State and local governments, nonprofits receiving federal awards
- 2007 Revised Yellow Book and Circular A-133 guidance on internal controls and reporting control deficiencies
 - Greater accountability on organizations
 - Closer scrutiny of auditors

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Written Engagement Letter

- AICPA standards do not explicitly require a written engagement letter with the client
 - Although the engagement letter is "presumptively mandatory" for an audit, review, and compilation
- The engagement letter documents the scope of services to be performed and thus the professional standards against which performance will be measured
- Without a written engagement letter, the first battle in court may be over the scope of services and the applicable professional standards

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Selected Professional Standards – Accountants' Liability

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Accountants' Liability

- Management's vs. auditor's responsibility
 - "...the fair presentation of financial statements in conformity with generally accepted accounting principles is an implicit and integral part of management's responsibility" (AU 110.03)
 - "...the auditor's responsibility for the financial statements he or she has audited is confined to the expression of his or her opinion on them" (AU 110.03)
- Auditor's use of professional judgment
 - "In the observance of generally accepted auditing standards, the independent auditor must exercise his judgment in determining which auditing procedures are necessary in the circumstances to afford a reasonable basis for his opinion" (AU 110.05)

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Accountants' Liability

- Failure to detect fraud
 - "Because of the characteristics of fraud, a properly planned and performed audit may not detect a material misstatement" (AU 230.12)
 - "Collusion may cause the auditor who has properly performed the audit to conclude that evidence provided is persuasive when it is, in fact, false" (AU 230.12)
 - "Fraud also may be concealed through collusion among management, employees, or third parties. Collusion may cause the auditor who has properly performed the audit to conclude that evidence provided is persuasive when it is, in fact, false" (AU 316.10)
 - "An audit conducted in accordance with GAAS rarely involves the authentication of [potentially fraudulent] documentation, nor are auditors trained as or expected to be experts in such authentication" (AU 316.10)
 - "...it is management's responsibility to design and implement programs and controls to prevent, deter, and detect fraud" (AU 316.04)

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Selected Professional Standards – Audit Malpractice

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Audit Malpractice

- Selected professional standards used in audit malpractice cases

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Audit Malpractice

- Understanding the entity
 - “Obtaining an understanding of the entity and its environment, including its internal control, is an essential part of planning and performing an audit...” (AU 311.03)
- Planning and supervision
 - “The auditor must adequately plan the work and must properly supervise any assistants” (AU 311.01)
 - “Planning is...an iterative process that begins with engagement acceptance and continues throughout the audit...” (AU 311.03)
- Consideration of fraud
 - “Because of the characteristics of fraud, the auditor’s exercise of professional skepticism is important when considering the risk of material misstatement due to fraud. Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence” (AU 316.13)

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Audit Malpractice

- Consideration of fraud
 - Auditors should perform the following activities in consideration of fraud:
 - “An exchange of ideas or ‘brainstorming’ among the audit team members, including the auditor with final responsibility for the audit, about how and where they believe the entity’s financial statements might be susceptible to material misstatement due to fraud, how management could perpetrate and conceal fraudulent financial reporting, and how assets of the entity could be misappropriated...” (AU 316.14)
 - “An emphasis on the importance of maintaining the proper state of mind throughout the audit regarding the potential for material misstatement due to fraud” (AU 316.14)

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Selected Licenses and Credentials

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Certified Public Accountant

Certified Public Accountant (CPA)

- A CPA is an accountant to whom a state has given a license showing that he has met prescribed requirements designed to insure competence on the part of the public practitioner in accounting
- CPAs traditionally perform assurance, attestation, and other public accounting services
- CPAs are required to maintain independence from the entity when they are conducting an audit or review
- CPAs may also hold Accredited in Business Valuation (ABV) and/or Certified in Financial Forensics (CFF) credentials (issued through the AICPA)

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Certified Public Accountant

- CPA is a professional designation
 - A college degree in accounting
 - Pass the uniform CPA examination
 - Complete required professional experiences
- CPA is also a professional license
 - Each state has a procedure to administer the license
 - Continuing professional education requirements
 - Legal definition of requirements for practice of accounting
 - Legal recognition of professional standards
- Adherence to professional standards is included in both the AICPA code of conduct and state laws

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Professional Investigator/Private Detective

- There are 17 individual licensure exemptions from the Private Detective, Private Alarm, Private Security, Fingerprint Vendor and Locksmith Act of 2004 ("Illinois Act"); two of which are relevant for attorneys or CPAs
 - An attorney licensed to practice in Illinois while engaging in the practice of law
 - The activities of persons or firms licensed under the Illinois Public Accounting Act if performed in the course of their professional practice
- It is a violation of the Illinois Act for an unlicensed person to practice, attempt to practice, or hold out as a Private Detective
 - First offense may be a Class A Misdemeanor
 - Second or subsequent offense may be a Class 4 Felony

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Professional Investigator/Private Detective

- It is important to engage only Private Detectives with a long track record of performing these types of services
- Private Detectives must abide by several laws that can change from time-to-time and may vary by state or jurisdiction
- If a Private Detective fails to adhere to these laws (whether intentionally or not) during your engagement, it could negatively impact the outcome of the case, for example:
 - Instances of indiscrete surveillance has resulted in Illinois Private Detectives being charged with felony stalking
 - Telephonic recordings made by an Illinois Private Detective, without consent of "all parties" is prohibited and has resulted in the Illinois Private Detective being charged under the Illinois Eavesdropping Statute
 - New Illinois law prohibits discrimination against employees and job applicants based on their credit history

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Professional Investigator/Private Detective

- A financial expert that is also a licensed investigator/detective can perform procedures and uncover information other experts can not
 - Perform background checks and asset searches that could potentially:
 - Uncover assets and/or income that has not been disclosed during litigation
 - Uncover otherwise undisclosed transfers of property to related or other parties
 - Examine computers and perform forensic analysis of computer data
 - Provide surveillance (physical and/or electronic)
 - Perform trash pulls and other investigative techniques
 - Interviews and interrogations
- These procedures often result in uncovering previously unknown information that may provide counsel an upper hand in litigation

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Certified Management Accountant (CMA)

Certified Management Accountant (CMA)

- Unlike a CPA, a CMA rarely works with the public and is usually employed directly by a company in a financial advisor capacity
- Usually advises the company on financial matters involving the overall management of the company
 - Specifically in the areas of corporate spending, budgeting, financial planning, and issues related to taxation compliance
- In order to achieve the CMA certification individuals must pass a two-part exam testing knowledge in:
 - Business Analysis
 - Management Accounting and Reporting
 - Strategic Management
 - Business Applications

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Certified Fraud Examiner (CFE)

Certified Fraud Examiner (CFE)

- Approximately 50,000 members CFEs in the world
 - Global association
- Requirements for certification:
 - Minimum bachelors degree
 - Two years professional experience substituted for each year of college
 - Of high moral character, need references to attest to this
 - Adhere to code of professional ethics of ACFE
 - Pass CFE exam
- Expertise to resolve allegations of fraud from start to finish by gathering evidence, taking statements, writing reports, testifying to findings, and assisting in the prevention and detection of fraud

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Certified Internal Auditor (CIA)

Certified Internal Auditor (CIA)

- Globally recognized certification for internal auditors
- Demonstrates professional knowledge of internal auditing profession
- Internal Auditing:
 - Independent appraisal function within a company to examine and evaluate the adequacy and effectiveness of the company's internal control system and its overall performance
 - Supplies management with analyses, appraisals, recommendations, counsel, and information concerning related activities
- As is the case with other certifications, the CIA exam is rigorous and comprehensive testing all aspects of the auditor's knowledge
 - The CIA exam covers current internal auditing practices and understanding of internal audit issues, risks and remedies
 - The exam consists of 4 parts, each part consisting of 100 multiple-choice questions

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Certified Valuation Analyst (CVA)

Certified Valuation Analyst (CVA)

- Accredited by the National Association of Certified Valuation Analysts (NACVA)
- Established in 1991
- Approximately 7000 members
- Requirements include:
 - Hold a CPA license or a business degree (Bachelor's or higher)
 - Minimum 2 years work experience or prepared 10 valuations
 - Pass a 5 hour proctored exam
 - Complete a sample Case Study report or submit a sanitized actual report prepared in last 12 months
 - Obtain a minimum of 60 points based on CPE training, mainly class hours or course development/presentation, every 3 years

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Questions?

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