CPA VOICE

The Ohio Society of Certified Public Accountants

September October 2020

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THE OHIO SOCIETY OF CPAs
ADVANCING THE STATE OF BUSINESS

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feature

in depth

CPA VOICE The Ohio Society of Certified Public Accountants September October 2020

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We are ready to meet this moment

There is a reason “unprecedented” has become a buzzword of 2020. Few words describe the environment more accurately right now.

But while recent events have left the world wondering what the future holds, The Ohio Society of CPAs has been preparing long before now for changes to the way business is done, to ensure you can do your job effectively and efficiently and that accounting maintains its reputation as a profession of the future.

Learning must adapt to unique situations

The coronavirus pandemic forced most learning opportunities to move online, and despite the chaotic nature of those initial months of the pandemic, our learning offerings adapted. We transitioned all of our in-person events to online for the remainder of 2020, which during CPE season is no small task. But we’ve been offering virtual learning opportunities for years before this, and it’s evident in the quality of our online events. Our team is always looking for ways to enhance your learning experience to make it more valuable and engaging, experience it for yourself and register for the Cleveland or Columbus accounting show or the Fall CPE conference at **my.ohiocpa.com**.

Accounting needs to reflect the communities it serves

The murder of George Floyd in May sparked unrest across the U.S., and a call to end the racial injustices that have plagued the country for years. We recognize the impact this has on the business community and we are committed to the fight to end racism. In June we announced a three-part commitment with that goal in mind, which includes a $100,000 pledge and addresses the areas of board and CEO leadership, organizational commitment and advancing public policy. You can read more of those details on page 16.

We also know the profession is still mostly white, and according to 2019 statistics from the U.S. Bureau of Labor, 6.9% of accountants are black, 5.4% are Asian and 13% are Hispanic or Latino. We take a look at steps the profession could take to become more inclusive on page 12, with insight from diversity, equity and inclusion experts and diverse CPAs to understand the ways accounting is falling short in retaining its diverse talent and where it needs to be better.

Advocacy efforts continue

Another fallout of the pandemic has been the impact at the Statehouse, and our advocacy team has been there step by step to ensure the needs of CPAs and business leaders are being prioritized. That includes House Bill

606, passed after months of lobbying by OSCPA and other businesses that will provide civil immunity for businesses and health care entities for actions taken during the coronavirus pandemic.

While the nature of this time is chaotic and confusing, we have been preparing. Preparing for change, preparing for evolution and preparing to move the profession forward. Although the world is unpredictable right now, we are ready, and have been ready, to meet this moment and lead you and your business for whatever comes next.

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Self-Assessment Exam

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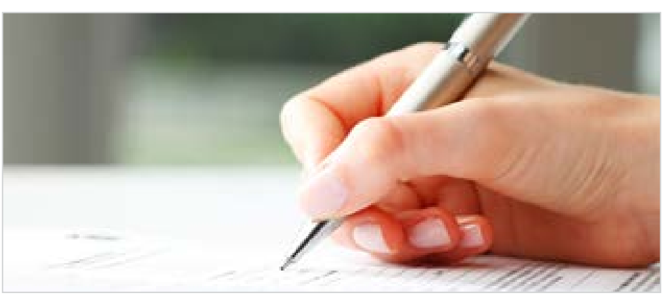
Product ID: #54759



Log in to **my.ohiocpa.com**, look up the exam using the product ID number above and answer the 12 required questions based on content in CPA Voice.

Costs

Members	Free
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Exams remain available online – and may be completed for CPE – through the same month of the following calendar year.

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1. Log in to **my.ohiocpa.com**
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5. Click "Launch" to take the exam. To print the exam questions, click "Resources" in the upper right corner of the exam window after you've already selected "Launch."

Self-Assessment Exam Results

Respondents taking the exam online receive their results immediately. Respondents who pass with a grade of 70% or better receive one hour of CPE credit in specialized knowledge, as approved by the Accountancy Board of Ohio.

Management responsibilities when providing information systems services

By Laura Hay, CPA, CAE

On May 5, the AICPA Professional Ethics Executive Committee (PEEC,) voted to defer the effective date of its new interpretation, “Information Systems Services,” for one year, to Jan. 1, 2022. Also deferred were interpretations for state and local government client affiliates and leases. “Information Systems Services” replaces the current “Information Systems Design, Implementation, or Integration” (ET sec. 1.295.145) under the “Independence Rule” (ET sec. 1.200.001) of the Code of Professional Conduct.

Financial information systems

For years, the current interpretation provided the guidance that threats to a CPA’s independence from installing an attest client’s financial information systems could be mitigated to an acceptable level if the CPA did not design or develop the financial reporting system, and if the CPA was in compliance with the general requirements of nonattest services. The new interpretation modernizes the standard providing a description of a financial information system and expanding upon the different types of implementation services that CPAs may be asked to provide and their impact on independence.

System and network maintenance, support and monitoring

The new interpretation provides clarification for three phases of information system services: the design and development, the implementation phase (which has numerous steps,) and services to support, maintain, and monitor a system after it is operational. OSCPA has received several inquiries about independence concerns related to ongoing system and network support or monitoring, and talked with Michele Craig, Lead Manager, AICPA Professional Ethics Division, about the development of this new interpretation.

Craig outlined that all assessments of nonattest services fall back to two questions:

- Have the general requirements been met? ET 1.295.040, and
- Is the firm assuming management responsibility? ET 1.295.030

Everything else in the interpretation are examples to answer these two questions.

The specific management responsibilities of most concern in providing information systems support from ET 1.295.030.02 are:

k. Accepting responsibility for designing, implementing, or maintaining internal control, and

l. Performing ongoing evaluations of the attest client’s internal control as part of its monitoring activities.

The current interpretation on “Information Systems Design, Implementation, or Integration” indicates that threats would be at an acceptable level and independence would not be impaired if a CPA performs network maintenance, such as updating virus protection, applying routine updates and patches, or configuring user settings consistent with management’s request. However, threats to independence could not be reduced to an acceptable level if the CPA “operates an attest client’s network.”

In debating the difference between permitted “network maintenance” and prohibited “operating a client’s network,” the PEEC distinguished between ongoing network maintenance (considered part of maintaining a system of internal control, which is a management function) and performing discrete, nonrecurring maintenance, support and monitoring services.

The new interpretation clarifies that ongoing network support or maintenance, which includes updating virus protection solutions, applying routine updates and patches, or configuring user setting; or operating or managing the attest client’s information technology help desk would impair independence.

Note that unlike the system implementation section of the interpretation, the network maintenance and support section applies to both financial and nonfinancial systems or networks.

A CPA cannot bypass this rule by creating separate, recurring engagements to provide the same discrete service multiple times.

Independence will not be impaired under the new interpretation, provided all of the general requirements of the "Nonattest Services" subtopic (1.295) of the “Independence Rule” (ET 1.200.001) are met; and the maintenance, support or monitoring services are individually separate, distinct, and not ongoing engagements in which the attest client has outsourced no function, process, or activity to the member that would result in the member assuming a management responsibility.

Examples of services that would not impair independence if provided as a one-time service and not part of the attest client's ongoing monitoring include:

a. Analyzing a network and providing observations or recommendations
b. Applying virus protection solutions or updates that the member did not design or develop
c. Applying updates and patches that the member did not design or develop
d. Providing advice, training, or instruction on a software solution
e. Assessing the design or operating effectiveness of an attest client's security over information technology systems
f. Assessing the attest client's information technology security policies or practices

Hosting services

The hosting services interpretation (ET 1.295.143), which became effective July 1, 2019, provides another example of a situation in which the CPA is considered to be maintaining the attest client's internal control over its data or records. Examples of providing hosting services include:

a. Acting as the sole host of a financial or non-financial information system of an attest client
b. Taking custody of or storing an attest client's data or records whereby, that data or records are available only to the attest client from the member, such that the attest client's data or records are otherwise incomplete
c. Providing electronic security or back-up services for an attest client's data or records.

Read more at: **www.aicpa.org/interestareas/professionalethics/resources/tools/downloadabledocuments/nonattestservicesfaqs.pdf**

Laura Hay, CPA, CAE is executive vice president of The Ohio Society of CPAs and staff liaison to the Accounting Auditing and Professional Ethics Committees. She can be reached at ***Lhay@ohiocpa.com*** *or* ***614.321.2241****.*

FAST FACTS

1. The PEEC voted to defer the effective date of its new interpretation, "Information Systems Services," for one year, to Jan. 1, 2022.

2. The new interpretation provides a description of a financial information system and expands upon the different types of implementation services that CPAs may be asked to provide that will impact independence.

3. The interpretation also clarifies that ongoing network support or maintenance, which includes updating virus protection solutions, applying routine updates and patches, or configuring user setting; or operating or managing the attest client's information technology help desk would impair independence.

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How to respond to subpoenas

By Jay Rasheed

CPA firms are often uncertain about whether or how to respond to a subpoena, as they also need to comply with a number of rules and regulations intended to protect client confidentiality. The following Q&A focuses on understanding the nature of subpoenas and how CPA firms can minimize their professional liability exposures when responding to them.

What is a subpoena?

A subpoena is usually a formal request for documents and appearance, typically requested by an attorney in the course of litigation, or by a government agency in the course of a criminal or civil investigation.

What should CPAs do when they receive a subpoena?

CPAs in receipt of a subpoena should consider the information in their client files, along with any recent communications with the client or any parties involved, and then contact the CPA's professional liability risk adviser or attorney before responding to the subpoena. In evaluating the appropriate course of action for CPAs to take, their adviser may consider the following information:

- What is the underlying litigation about? Does the CPA have direct or other knowledge about what the issues are in the litigation?
- What is the subpoena asking the CPA to do? Is it requesting that the CPA provide testimony, documents or both? Does the subpoena excuse the CPA from testifying if the CPA provides the documents in advance?
- Is the CPA in possession of the information listed? The CPA should review the subpoena and consider whether the firm is in possession of the information. If the information is confidential, such as tax documents, it may be subject to claims of privilege by the client or an accountant-client privilege.
- Does the subpoena provide a deadline for complying? If the deadline is quickly approaching, or if the subpoenaing party did not provide sufficient time to comply, has the CPA received any communications to suggest the opposing party will grant an extension of time?
- What communications has the CPA had with the client? Has the CPA had any contact with the client, the attorneys on the case or the governmental agency? Does that contact suggest whether the CPA is a target or merely a person in possession of information? Is the client taking specific measures to formally object to the subpoena?

Why is the CPA receiving a subpoena?

Typically, an attorney or other party will issue a subpoena because she thinks that the CPA is in possession of information and documents that will establish facts that are relevant to the underlying case. However, sometimes

a subpoena may indicate that the CPA is a target in the underlying case by seeking information that could implicate the CPA as possibly liable for the matter being investigated or litigated.

Is the CPA required to comply with a subpoena? Is a subpoena a court order?

If the CPA has received an order signed by a judge, or a subpoena from a government agency, in most cases the CPA must comply. Government subpoenas generally require compliance, even without client consent or a court order.

However, most subpoenas are preprinted forms that attorneys or other parties fill out to request information. In these cases, accountants are bound by a number of rules and regulations that are intended to protect clients, including Internal Revenue Code section 7216. Under most circumstances, these rules and regulations prohibit the accountant from complying with the subpoena, unless the accountant has undertaken specific measures to protect client confidentiality, including obtaining the client's consent.

Again, CPAs should contact their risk adviser regarding *all* subpoenas to evaluate the underlying litigation and the obligation to comply.

Should the CPA report a subpoena to the CPA's professional liability agent or carrier?

Yes. Regardless of how much or how little information a CPA may have pertaining to the client or former client, it is always important to promptly report the matter.

*Jay Rasheed is a claims specialist with CAMICO (**www.camico.com**). He handles claims and calls regarding subpoenas from CAMICO policyholders.*

FAST FACTS

1. CPAs in receipt of a subpoena should consider the information in their client files, along with any recent communications with the client or any parties involved, and then contact the CPA's professional liability risk adviser or attorney before responding to the subpoena.

2. Typically, an attorney or other party will issue a subpoena because he or she believes that the CPA is in possession of information and documents that will establish facts that are relevant to the underlying case.

3. Regardless of how much or how little information a CPA may have pertaining to the client or former client, it is always important to promptly report the matter.

FEATURE

HOW INCLUSION

could help retain diverse candidates in the profession

By Jessica Salerno, OSCPA senior content manager

Despite increased efforts over the years there is still a disappointing lack of racial and ethnic diversity in the accounting profession, as it remains overwhelmingly white.

According to the AICPA 2019 Trend report, 4% of new grad hires are black, only 2% are CPAs and only 1% become partners. These numbers decrease similarly for Hispanic/Latinos and Asians, except for the number of Asian accountants increasing briefly at professional staff before dropping in CPA and partner roles.

But while these numbers are discouraging, more and more companies publicly discuss a commitment to diversity, equity and inclusion strategies. All of this effort over the years and lack of results means something is missing. These conversations have only increased since the murder of George Floyd, sparking protests and unrest across the U.S. this summer and fall.

Tiffany Crosby, CPA, director of learning at OSCPA, has spent decades in the profession and said there are certain ways accounting has evolved when it comes to race and others where it still falls short. She said there has been some progress to the areas of awareness, leadership development programs and building a pipeline of more diverse accountants. But more needs to be done around inclusion.

> **“If you think about how we’ve been conditioned since being young kids, one of the things you don't talk about is race.”**

Talking about race

Since race is a taboo topic and no one wants to be called racist, Crosby said many professionals will avoid the topic in the workplace entirely. But to make true advancement she said people have to become comfortable leaning into those conversations.

“I think people are extremely uncomfortable,” Crosby said. “If you think about how we’ve been conditioned since being young kids, one of the things you don't talk about is race.”

It’s normal in today’s business environment to attend workshops on recognizing racism and encouraging inclusion, and while that is crucial to the process, Crosby said eventually that knowledge and information has to be put to the test. That means recognizing instances where there is inclusivity or bias happening in the workplace and addressing it.

These interactions might be awkward, but she said not to focus on blaming or shaming and instead on growth.

> **“You should never think that you know it all.”**

Devray Kirkland, chief diversity officer at Cardinal Health, said it’s valuable to remember this work is a journey, and not everyone is in the same place. Managers and leaders of the organization should be able to navigate these difficult conversations and be open to their own shortcomings in these areas. He said leaders should look at DE&I as another tool in their toolkit of skills, something where your knowledge and understanding can always be improved.

“As you have a tool, you’re learning different ways to better leverage that tool,” he said. “You should never think that you know it all.”

Initiatives that could do more

And although it’s positive that many companies have DE&I strategies, organizations need to consider if their efforts align with their overall goals and will actually make an impact.

“A lot of the strategies are well intended, but I don't know if they're getting the results they need,” Kirkland said. “Because if they were, we probably wouldn't have some of the deficits that we're seeing, especially when you're thinking about ethnic representation in an organization. ”

Crosby said if a company’s current DE&I strategy is pulling out a piece of paper once or twice a year and completing an hour training, that’s not going to make a difference and is perceived as more of a compliance exercise than an actual strategy.

To be effective, these strategies have to be owned by everyone in the organization, Crosby said. A team or individual might lead those efforts, but the entire staff should consider how it factors into their work.

“It needs to be something that eventually becomes integrated and becomes a non-negotiable way of how you operate,” Crosby said. “And that's when you start to see progress.”

It’s crucial that the DE&I tone is being set by managers and leaders, she said, so it will be reflected in:

- Office culture and behaviors
- Hiring, firing and promotions
- Performance reviews
- Coaching conversations

Although there likely will not be one fix to solve all of a company’s issues when it comes to inclusion, Kirkland said organizations must continue to try new ideas to see which have the greatest impact.

When measuring metrics for DE&I, he said to consider if these metrics align with the values and mission of the organization, and what make sense for a measure of success. And remember this work is a marathon, not a sprint.

“It is not something that you're going to all of a sudden overnight see drastic change, because you want to do it in a very thoughtful way,” Kirkland said.

A sense of belonging

Margaret Finley, diversity, equity and inclusion strategist at OSCPA, said in her conversations with diverse accountants she hears they’re leaving the profession because they don’t feel a sense of belonging.

“Because once you get there, how are you made to feel?” she asks, “Do you have development opportunities? Do you have a mentor? Do you have a sponsor? Do you have someone that will say, ‘Do you want to go to lunch today?’”

Despite concentrated efforts on engaging diverse professionals, retention remains a sore spot. Crosby noted that retaining the current diverse entry-level professionals would mean the future leadership of the profession would look far different than how it does now.

“You can pump as much as you want into the pipeline, but if it has a big gaping hole in the middle, then what you're putting in is gushing out,” Crosby said.

Catrina Latten, CPA, spent years at a Big Four accounting firm and although she said she had a “wonderful experience,” there, she felt often times she was left to create her own path.

“I don't feel that anyone purposefully left me out,” Latten said. “But oftentimes I would feel that I was left out to create my own career.”

She said she gained great experience while there but didn’t see the company making an effort to help black women climb the corporate ladder.

“I try really hard not to compare my journey with anybody else's,” Latten said. “But if I actually look at a lot of my colleagues that I started with there, they seem to be on a different trajectory than I was in and I can't figure out why it was that way.”

Kirkland said it’s crucial to be intentional and take the opportunity to find out what diverse staff members need to help them be successful, or how to help them feel they belong.

“It's not a situation where you’re going to start carving out different things to only do for black and brown people,” Kirkland said. “But it is an understanding of what are some of the things that would be important to the career growth and development of those who are diverse.”

Crosby said to take note of whether the environment is welcoming for all, or just welcoming for the majority. She said diverse individuals might feel they have to constantly suppress their culture or experiences to relate to the oftentimes white majority and fit in with the group.

A more diverse future will have to be intentional

Although there will be missteps and mistakes, it’s vital to continue working on DE&I efforts to make the profession one that thrives in the future.

Kirkland said a more diverse workforce has proven to be a benefit to businesses, and that diversity, equity and inclusion practices encourage progress and innovation.

“To make sure that you're able to produce and provide innovative and really cutting-edge products and solutions, you've got to have that diversity of thought in your organization, which automatically comes with diversity of representation,” Kirkland said. “I don't see this going away. I see it as being important. It's about how are you creating equity and equality within your organization?”

“I don't see this going away. I see it as being important. It's about how are you creating equity and equality within your organization?”

Crossing Bridges Series

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February 10	Stories of Belonging: Equity & Inclusion in the Workplace – WEBCAST
March 10	Inclusiveness Metrics & Measures: Where Are We Going? - WEBCAST

Learn more at:

ohiocpa.com/crossingbridges

Diversity + Inclusion

SIDEBAR

OSCPA DIVERSITY COMMITMENT

In June OSCPA President & CEO, Scott Wiley, CAE announced a three-part commitment to end racism and help create a business environment that offers equal opportunity to all. The three parts are:

1. Board & CEO leadership

In 2016, the OSCPA Executive Board engaged leading minds in the profession to adopt a comprehensive diversity + inclusion strategy and in 2018, OSCPA became the first CPA professional association to sign the CEO Action for Diversity & Inclusion pledge.

OSCPA is convening leaders and peers from within our profession and leaders from other industries and disciplines to build a guiding coalition that is committed to affecting social change.

2. Organizational commitment

OSCPA will commit resources, both human and financial, toward creating a solution to end racial injustice. To that end OSCPA is pledging $100,000 towards those efforts. Our D+I Task Force will identify how and where best to allocate these funds in our state and how we can best mobilize and engage the Ohio CPA community and our 27,000+ members as part of this commitment.

3. Advancing public policy

OSCPA will continue to work with key stakeholders advocating for solutions that address racial injustice in our state and nation. OSCPA partners with the accounting profession to advance the state of business so Ohio can enjoy a healthy and sustainable economic environment. Addressing racial injustice is critical to economic opportunity and prosperity for all.

Read the commitment in its entirety at **www.bit.ly/2Nwio2N**.

advocacy in focus

OSCPA endorses French, Kennedy for Ohio Supreme Court

OSCPA staff report

The Ohio Society of CPAs has announced its endorsements of Justice Judith French and Justice Sharon Kennedy for the Ohio Supreme Court.

OSCPA's 19-member Statewide Endorsement Screening Committee and 15-member Executive Board separately evaluated the candidates before unanimously endorsing French and Kennedy, both of whom are running for re-election in November.

Members of the seven-member Ohio Supreme Court are elected on a non-partisan basis for six-year terms. The Court's decisions can have a significant impact on Ohio's economy, health care, education and our state's ability to maintain a stable legal environment, which is critical to business owners as they plan for the future. When you go to vote, remember KFC: Kennedy and French for the Court.

Justice Judith French

"Justice French has a clear understanding of need for predictability on the issues that come before her, as well as the impact her decisions can and do have on Ohioans and Ohio businesses," said OSCPA President and CEO Scott D. Wiley, CAE. "Those factors, combined with her impressive history of strict interpretation of the law, make her an excellent jurist. We are proud to formally endorse Justice French for another term on the Ohio Supreme Court."

French was appointed to the Ohio Supreme Court in 2013 to replace Evelyn Lundberg Stratton, who resigned. She was elected to her first full Ohio Supreme Court term in 2014. She previously served as deputy director for legal affairs for the Ohio Environmental Protection Agency, as an assistant attorney general and as counsel to the governor.

Justice Sharon Kennedy

Kennedy first joined the court in 2012, having been elected to fill an unexpired term. She was re-elected to a full term in 2014. She previously served at the Butler County Court of Common Pleas, Domestic Relations Division beginning in 1999, then served as the administrative judge of that division from 2005 through 2012.

"Justice Kennedy adheres to the important principle of judicial fairness and has long maintained a commitment to the rule of law," Wiley said. "She has a solid record of impartiality during her tenure with the Supreme Court and clearly understands the impact her decisions have on Ohioans and Ohio businesses. OSCPA strongly supports her reelection in November."

*For more information on additional endorsements, go to **ohiocpa.com**. If you have questions about these candidates or want to know more about the endorsement process, please contact the government relations team, at **government@ohiocpa.com**.*

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Opportunity Zone Funds vs. 1031 Exchanges: Pros and Cons

By Jeremy J. Schirra, Esq., CPA

Opportunity zones and 1031 exchanges:[1] the new kid on the block versus an old incumbent. Are these tax incentives truly alternatives to one another? The answer is (of course), it depends; the decision to use one option over the other is dependent on the taxpayer's underlying factual situation, goals, and planned investment holding period. However, either alternative is a potential capital gain tax reduction tool, either by deferral or reduction of taxable burden.

This article will first provide some background on the opportunity zone program and 1031 exchange. This article will then conclude with some additional thoughts on opportunity zone investing. Note that a major caveat of this article is that it will focus primarily on opportunity zones as a real estate investment and development tool as opposed to an incentive to invest more broadly in other operating businesses in opportunity zones. The potential tax advantages in the area of non-real estate opportunity zone businesses cannot be understated.

Opportunity Zones

The federal Tax Cuts and Jobs Act of 2017[2] ("TCJA"), which was enacted at the near end of 2017, first conceived of the concept of opportunity zones. Thereafter, census tracts were designated as "qualified opportunity zones" by the states; however, the census tracts so designated either met the definition being a low-income community[3] or were eligible tracts that were contiguous with other selected low-income community tracts. In all, there are more than 8,700 qualified opportunity zones located in all 50 states, the District of Columbia, as well as five U.S. territories. The opportunity zone program offers taxpayers three key benefits:

1. **Temporary deferral of taxes on earned capital gains.** Gains utilized to make initial opportunity zone investment are deferred until the end of 2026 or until the sale of the QOF investment, whichever comes first;[4]
2. **Basis step up of invested earned capital gains.** An investor's original basis in his or her respective gains may be eligible for up to a 10% step up in basis or, stated differently, up to a 10% break in such taxpayer's gains taxes;[5] and
3. **Permanent exclusion of taxable income on new capital gains.** If the taxpayer holds his or her investment in a QOF for at least 10 years, such taxpayer will not pay any taxes on the gains produced by such QOF investment.[6]

To entitle a taxpayer to opportunity zone benefit, such taxpayer with capital gains realized in connection with a sale or exchange of property invests those earned capital gains into a qualified opportunity fund. The term "qualified opportunity fund" (hereinafter "QOF") means any investment vehicle which is organized as a corporation or a partnership for tax purposes for the purpose of investing in qualified opportunity zone property (other than another QOF) that holds at least 90% of its assets in qualified opportunity zone property, determined by the average of the percentage of qualified opportunity zone property. By investing in a QOF and acquiring, improving and holding appropriate assets ("Qualified Opportunity Fund Property"), it is possible to eliminate capital gains taxes, both from the initial capital gain proceeds that are invested into the Qualified Opportunity Fund Property, and from the appreciation in the Qualified Opportunity Fund Property that is acquired and improved through the QOF.

1031 Exchanges

The IRC Section 1031 Tax-Deferred Exchange has been a mainstay in real estate investment for many years. In essence, a taxpayer may take the proceeds from the sale of real estate and invest those proceeds into "like kind" property and defer the payment of capital gains taxes for as long as the taxpayer holds the exchanged property – potentially indefinitely, as the taxpayer rolls its proceeds from the sale(s) of real property each time it sells real estate. 1031 exchanges are a powerful tool for investors, but there are a number of limitations that can make them unwieldy and not in line with the investor's objectives. A 1031 exchange requires that the investor (1) reinvest all of its net sales proceeds (not just the amount of the capital gain), (2) from the sale of real estate, (3) into another real estate asset. Further, (4) the same "taxpayer" must divest and reinvest directly in the real estate assets. For instance, the investor cannot divest from an interest in real estate and reinvest into another or joint ventured entity (usually an LLC) under IRC Section 1031. For those of you familiar, this is where the generally unwieldy Tenancy in Common structure comes into play, with the restrictive rules and regulations promulgated by the U.S. Treasury Dept. creating significant issues in regard to ownership, management and operations of projects.

The Comparison

By way of reference, capital gains are generally taxed at the federal level from a 15% to 37% tax rate plus a 3.8% surtax in many cases. Use of opportunity zone funds and 1031 exchanges create tools for managing an investor's tax liabilities, while enhancing the amount of funds available to invest.

Invested Capital	**Advantage: Opportunity zones.** A major advantage that opportunity zone tax benefits provide over a 1031 exchange is that a taxpayer only needs to invest the amount of realized gain for opportunity zone investment, as opposed to utilizing all of the proceeds of the underlying sale or exchange as required by a 1031 exchange.
Location of Investment	**Advantage: 1031 exchange.** Opportunity zone investment ("*OZI*"): The asset or operating business that qualifies as Qualified Opportunity Fund Property must be located in an Opportunity Zone in the U.S. and certain of its territories. 1031 Exchange: Property can be located anywhere in the U.S.
Types of Assets Sold or Exchanged to Generate Gain	**Advantage: Opportunity zones.** OZI: Capital gains from virtually any capital asset should qualify for investment in a QOF. This includes capital gains from real estate, personal property, intangible assets, stocks and other securities. 1031 Exchange: Limited to real estate transactions.
Types of Underlying Eligible Assets for Acquisition/ Investment Criteria	**Advantage: Opportunity zones.** 1031 Exchange: Requires that the investment remains invested in real estate. OZI: Provides more options: real estate, qualifying stock, qualifying partnership interests, tangible property used in a trade or business of the QOF.
Ownership Structure	**Advantage: Opportunity zones.** OZI: More flexible single-tier or two-tier structures. Taxpayers invest eligible gains directly into a QOF (structured either as a corporation or partnership) and that QOF either may directly acquire property or may acquire the equity interests in a partially owned or wholly owned subsidiary entity called a qualified opportunity zone business. 1031 Exchange: Investment in the replacement property must be made by the same taxpayer utilizing the same EIN as the taxpayer that sold the real estate that generated the capital gain that is to be deferred through a like kind exchange.
Deferral of original investment	**Advantage: 1031 exchange.** OZI: Gains of original investment may be deferred until December 31, 2026 (subject to basis step up as noted above). 1031 Exchange: Gain of original investment is deferred indefinitely so long as original sale proceeds remain invested and no other recognition event occurs.
Deferral of gains occurring *during* investment	**Advantage: Opportunity zones.** OZI: Amount of capital gain realized through the appreciation of the investment in Opportunity Zone Fund Property is permanently excluded from capital gains tax, so long as the investment is held for at least 10 years. 1031 Exchange: No special deferral for capital gains generated from the sale of appreciated replacement property. Further deferral of capital gains on appreciated replacement property requires subsequent 1031 exchange or use of another tax deferral mechanism.
Timing of reinvestment	**Advantage: Opportunity zones.** OZI: Capital gain proceeds to be invested within 180 days of a sale. However, once money is invested into a QOF, the QOF has various statutory and regulatory safe harbors in which to invest the proceeds. 1031 Exchange: Reinvestment must occur within 180 days; new exchange properties must be identified within 45 days of the sale of the original property.

Conclusion

1031 exchanges have been a long-utilized tool and have provided many real estate investors a great tax relief. The opportunity zone incentive is a great alterative (or in some cases, the only choice) for taxpayers seeking to shelter gains from real estate or from other sales or exchanges. Thus, investors of all kinds may have an appetite to utilize the opportunity zone program to his or her benefit. In addition, the need to only invest the gains capital rather than all of the total amount realized from a sale or exchange is a major benefit of the opportunity zone program over 1031 exchanges. While the opportunity zone may have some additional compliance aspects to it, many of those aspects can be mitigated by investing gains in QOFs with professional management. Real estate developers implementing projects in qualified opportunity zones may find better pricing for equity or find increased demand for their real estate projects located in opportunity zones.

Please note that the above article represents a summary only and does not include all of the provisions of the applicable statutes, rules and regulations and also ignores some fact-specific technicalities and requirements. It is intended for discussion purposes only and not intended to provide tax advice. Please consult with your tax real estate counsel and certified public accountants prior to making any opportunity zone investment.

Jeremy J. Schirra is a member of Dickinson Wright PLLC, a full-service national law firm with 17 offices throughout the United States and Canada, and is an attorney and CPA in Ohio. Mr. Schirra's legal practice focuses on real estate development, joint ventures, taxation and finance, with an emphasis on complex real estate transactions involving tax and economic development incentives.

FAST FACTS

1. The decision to use opportunity zones over 1031 exchanges is dependent on the taxpayer's underlying factual situation, goals, and planned investment holding period.

2. The IRC Section 1031 Tax-Deferred Exchange has been a mainstay in real estate investment for many years.

3. 1031 exchanges have been a long-utilized tool and have provided many real estate investors a great tax relief.

4. The opportunity zone may have some additional compliance aspects to it, many of those aspects can be mitigated by investing gains in QOFs with professional management.

[1] Throughout this article, I use "1031 exchange" to refer to like-kind exchanges described under Internal Revenue Code Section 1031. Generally, if a taxpayer makes a like-kind exchange of real property, that taxpayer is not required to recognize a gain or loss for federal income tax purposes. This article does not delve deep into 1031 exchange law as it has been written about extensively.

[2] Pub. L. 115-97 (Dec. 22, 2017).

[3] IRC §1400Z-1(a), (c)(1), & (e). "Low-income community" for purposes of designating qualified opportunity zones has the same meaning as when used in Section 45D(e) of the Internal Revenue Code. IRC § 1400Z-1(c)(1).

[4] IRC § 1400Z-2(b)(1).

[5] See IRC § 1400Z-2(b)(2)(B)(iii) & (iv); see more generally, IRC § 1400Z-2(b)(2).In the absence of congressional action, any opportunity zone investments made as of or after the date of this article are not eligible for the additional 5% step up in basis since a 7 year holding period can no longer be achieved prior to Dec. 31, 2026; thus, the 15% step up in basis is not mentioned. IRC §1400Z-2(b)(2)(B)(iv). There is hope that the opportunity zone program will be extended as well as some of its accompanying incentives.

[6] IRC § 1400Z-2(c).

Career Center

The key ingredients you need for a diversity strategy that make an impact

By Nicole Fracasso, OSCPA

The past few months have been a rallying cry for more action and better outcomes when it comes to diversity and inclusion, and organizations around the country are committing to doing so.

KeyBank wants to ensure equity is included in these initiatives as well.

“Without equity there is no inclusion. Without equity there is no culture of belonging. Without equity there is no real feelings of transparency and trust,” said Trina Evans, director of corporate center and chief of staff for KeyBank. “I think equity is central to this work and incredibly important to the linkage between both diversity and inclusion.”

In fact, the notion of DE&I without a sense of equity is one of the reasons a lot of companies have been challenged, said Greg Jones, chief diversity, equity and inclusion officer for KeyBank.

“From my perspective, equity is the component that completes the overall equation in this space,” he said.

Part of KeyBank’s DE&I commitment is not only ensuring equity internally, but externally as well.

“Outside the company as a bank we have both the opportunity and the obligation to create access and equity within our community,” said Evans. “Whether that’s in the form of access and equity in education, workforce development, or community development and affordable housing mortgages to low to moderate income individuals or small business startups for people who wouldn’t otherwise have a shot at that.”

In addition, Evans and Jones emphasize the value of an authentic company culture.

"Culture is everything, it's the operating system by which an organization functions," said Jones. "It's all of those things that define the character of an organization."

To position your organization as an ally and advocate, Evans said, you must become more active in the conversations and events going on around your community.

"Companies have an obligation to stand up, put their voices into the ring, be part of the discourse, be part of the change we need to be," said Evans. "Be focused on this notion that enough is enough."

Having these conversations in a productive way requires a high level of emotional intelligence and access to resources you normally don't discuss at work, said Jones. At Key, business leaders work to reassure employees they're not walking alone. It's essential to create an environment where leaders are encouraged to speak up.

"Let it be known that you may not get it perfect. You may stumble, but that's okay, we're going to grow in this space together," said Jones.

Another factor in KeyBank's commitment to DE&I is Key4Women. This group focuses on women businesses owners to support their financial progress.

"It's really about advocating, connecting and empowering women," said Barb Smith, director of Key4Women.

The whole concept of diversity, equity and inclusion sits firmly with Key4Women as well, she said.

"Women now make up 56% of the work force and hold 50% of leadership roles," Smith said. "Yet we still have challenges with equity and breaking into those top ranks."

When you look at diversity in leadership, any company that has a diverse board of leaders is a stronger company, she said.

"This is a transformational period. From a DE&I perspective I've never seen anything like it," said Jones. "I'm thoroughly convinced now this is not going away. The match was lit, and this was an explosion. What's transpired over the last few weeks has been a tipping point."

*Hear more from Jones, Evans and Smith on the State of Business podcast episode titled "How one business thrives using diversity, equity and inclusion practices." Download it wherever you get your podcasts or listen at **ohiocpa.com/podcast**.*

Steps executive leadership and managers can take to create an inclusive environment

By Margaret Finley, CPEC, Diversity, Equity & Inclusion Strategist

Now more than ever, diversity, equity and inclusion are business imperative topics in executive strategic plans and focus. Prioritizing the need for diverse teams and leadership has translated into a surge in demand for "Diversity, Equity and Inclusion" roles. With these roles, a primary responsibility will be to understand the organization's current employee makeup, what culture is underpinning every employee's day-to-day work and how to potentially change that culture to work for everyone in the organization to create a sense of belonging and value. Culture plays a huge role in shifting the diversity needle and forming truly inclusive environments.

Creating an inclusive culture

Steps to form inclusive cultures, where all employees at every level of the organization are heard, can succeed and are fully engaged with leadership are:

Listen to understand

To improve an organization's culture, gather an understanding of the current state of the culture. Spend time understanding what is working for employees, what could improve and what is required that is currently lacking. Listening can be done in many forms: facilitated workshops, one-to-one meetings and employee surveys. Be prepared to be comfortable being uncomfortable as the goal of these sessions should be to create an environment that is honest and transparent. When hearing from employees, listen to people from all levels and listen genuinely.

Move from words to action

Post "listening" phase, form a plan of how to tackle what you have heard. This step is important to avoid employee disengagement due to "all talk, no action." Action can take many forms.

Value diverse perspectives, values and beliefs

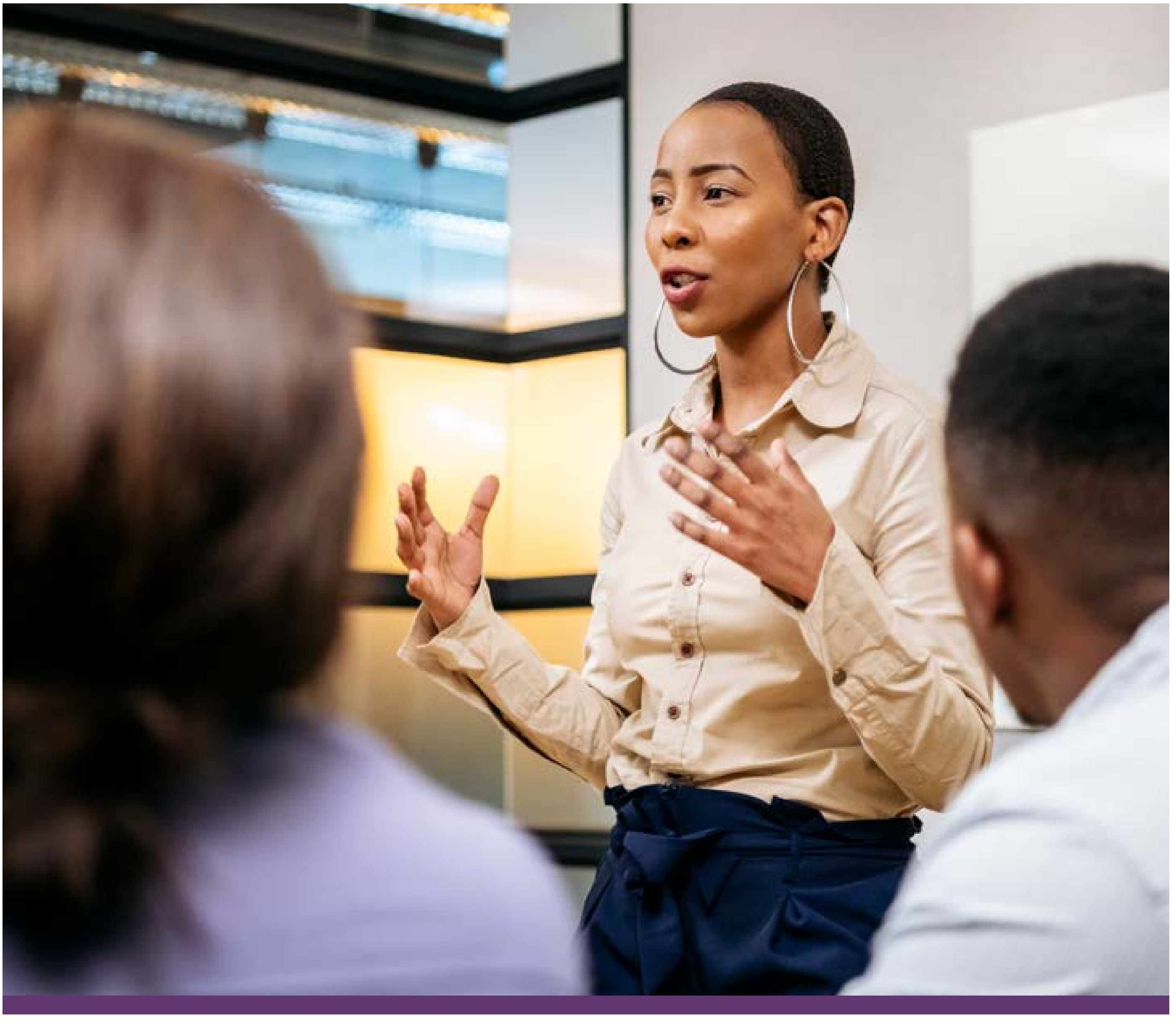
A culture of inclusion and belonging can be many things to different people. A sense of belonging is different for everyone. When prioritizing what to amplify or change, remember that everyone's input is equally as important. Executive level input is incredibly useful, as these groups will have insight at senior levels and understand the business at this level, however, input from junior employees is equally as important, as this will provide a different lens to the organization's culture.

Establish two-way communication between leaders and all employees

An organization’s culture should continually evolve as the company grows. To ensure the culture is continually underpinned by embracing diversity, equity and respectful behaviors, a two-way line of communication must be open between leaders and all employees, which is a sign of an inclusive culture.

A culture of inclusion is imperative to a successful business

Embracing diversity, inclusion and belonging is not just the right thing to do – it is a must do. An inclusive organization is two times as likely to exceed financial targets, three times as likely to be high-performing, six times more likely to be agile and innovative and eight times more likely to achieve better business outcomes. An organization's culture will be instrumental in their success, growth and employee engagement – therefore, it makes sense to spend the time investing and getting it right. The journey is a marathon and not a sprint.



The Ohio CPA Foundation

Investing in the Future

2019-2020 Annual Report

Dear Donors and Friends,

If you want to feel inspired about the future of our profession, meet the incredibly talented and enthusiastic young people who will follow in our footsteps. As I've met a few of our Student Ambassadors on 18 Ohio campuses, they impress me with their big dreams.

Isaiah and Marcy are pursuing graduate degrees in accounting. Antonia and Alyssa have jobs lined up with Big 4 firms. Igor, an "Entrepreneur pursuing the American Dream," is starting a business, PastryNow.

Nothing is going to stop these young people. Even if their internships are conducted working from their childhood bedroom, classes in the fall are all online, work/study jobs have fallen through, or job offers are pushed later in the year, their passion is unstoppable. And the Ohio Society of CPAs has more than 10,000 student members!

You can't lose when you bet on these kids – and that's why I am so grateful to you for supporting The Ohio CPA Foundation.

Your gifts – from $25 to $25,000 – provide college students with leadership training and much-needed scholarships and high schoolers with an introduction to careers in accounting. As the profession gets more complex and adopts new technology and innovation, we know these young people will become vital, trusted advisors for their clients and businesses.

Thank you! When you invest in The Ohio CPA Foundation, you are making an investment in more than just a program or a group of students, you are making an investment in the future of the profession.

With gratitude,

Jay J Moeller

Jay Moeller, CPA
RSM, LLP
Chair of the Board of Trustees
The Ohio CPA Foundation

2019/2020

PROGRAM SUCCESS

STRATEGIC FOCUS

The CPA credential opens the door to a rewarding and satisfying career, but many young people tell us they never knew about accounting. The Ohio CPA Foundation's mission is to get more young people interested in accounting, and to inspire and encourage students to become CPAs who embrace the core values of the accounting profession and serve the public interest.

Enrollment in business school is down, and likewise enrollment in accounting programs is down. We work directly with young people from diverse backgrounds through high school and college to show them what our profession has to offer. Our career awareness programs demonstrate the wide range of professional paths open to accountants. We provide encouragement, mentoring, professional development and scholarships to the bright and talented young people who will someday be our colleagues.

HIGH SCHOOL ACCOUNTING CAREER DAYS

As students are thinking about college, they may not have a clearly defined path. They may be limiting themselves to careers where they know someone, or they might have some stereotyped ideas about what accountants *really* do.

High School Accounting Career Days reach students who are preparing for college and introduce them to the breadth of options in the accounting profession. By capturing the attention of students before they decide on a major field of study, the Foundation is paving the professional pathway for future CPAs.

1,280 High Schoolers who attended Accounting Career Days in 2019

ACAP-OHIO: ACCOUNTING CAREERS AWARENESS PROGRAM

Presented in partnership with the National Association of Black Accountants, The Ohio State University Fischer College of Business and The Ohio Society of CPAs, ACAP-Ohio is a weeklong program for racially and ethnically underrepresented high school students interested in exploring accounting and business.

This program introduces students to a variety of accounting careers and a network of diverse CPAs and business leaders who look like them. The program recruits the best talent from all backgrounds so that the profession better reflects the communities it serves.

ACAP-Ohio

Accounting Careers Awareness Program

ACCOUNTING CAREERS LEADERSHIP ACADEMY (ACLA)

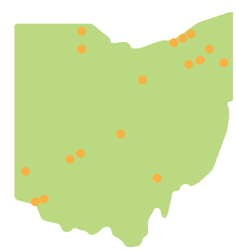
Accounting Careers Leadership Academy is an all-expenses-paid conference to encourage college students from traditionally underrepresented populations to explore the accounting profession: racial minorities, first generation college students, LGBTQ students and others. The conference strengthens students' leadership skills and highlights the limitless possibilities and opportunities of becoming a CPA. Participants hear from leading practitioners and engage in interactive sessions to improve leadership skills, prepare for the steps following graduation, and connect with recruiters and practicing CPAs.

"It was amazing talking to diverse professionals in the business world. I learned so much from them, and how expansive the field of accounting really is."

High school student on ACAP-Ohio

STUDENT AMBASSADOR PROGRAM

The Ohio CPA Foundation's Student Ambassador Program employs the power of peer-to-peer influence to reach students who have not yet declared a major with information about accounting and the CPA profession. Student Ambassadors also support and encourage fellow accounting majors to finish school and continue on to the CPA exam. Student ambassadors are accounting majors at Ohio's premier colleges and universities.



19 Student Ambassadors on 18 college campuses

COLLEGE SCHOLARSHIP PROGRAM

CPAs need the best training in college, and it is expensive. The Foundation's College Scholarship Program provides financial support to outstanding students who are pursuing their accounting degree to recognize their achievements and inspire them to continue. We are pleased to be able to help young accounting majors who meet our rigorous criteria: high grade point average, leadership in student activities and the community, and a commitment to pursue the CPA credential.

710

Gifts under $100 made from members in 2019 to support these programs

Don’t Let COVID-19 Impact Their Dreams.

Support the future of the accounting profession by adding a gift for The Ohio CPA Foundation on your OSCPA dues statement or by contributing online at **www.ohiocpafoundation.org**.

Your generous support:

- ✔ Welcomes the next generation to our profession
- ✔ Introduces students to the benefits and values of becoming a CPA
- ✔ Contributes to leadership development programs that enable students to enter the workforce prepared for success.

THE OHIO CPA FOUNDATION

Investing in the Future

Thank you, your gift makes all the difference!

www.ohiocpafoundation.org

Investing in the Future

THE OHIO CPA FOUNDATION STATEMENT OF FINANCIAL POSITION

As of April 30, 2020 and 2019

	2020	2019
ASSETS		
Cash and cash equivalents	$29,000	$87,000
Accounts receivable, the Society	-	$3,000
Pledges receivable, net	$94,000	$109,000
Investments	$3,114,000	$3,552,000
Total assets	$3,237,000	$3,751,000
LIABILITIES AND NET ASSETS		
LIABILITIES		
Scholarship payable	$53,000	$55,000
Accounts payable - the Society	$22,000	-
Deferred revenue	$16,000	-
Total liabilities	$91,000	$55,000
NET ASSETS		
Without donor restrictions	$192,000	$339,000
With donor restrictions	$2,954,000	$3,357,000
Total net assets	$3,146,000	$3,696,000
TOTAL LIABILITIES AND NET ASSETS	$3,237,000	$3,751,000

THE OHIO CPA FOUNDATION STATEMENT OF ACTIVITIES

Years Ended April 30, 2020 and 2019

	2020 Total	2019 Total
REVENUE		
Donated services	$272,000	$402,000
Contributions	$284,000	$344,000
Investment income, net	($380,000)	$63,000
Net assets released from restrictions	-	-
Total revenue	$176,000	$809,000
EXPENSES		
Pipeline:		
Professional awareness	$226,000	$221,000
Diversity and inclusion	$139,000	$191,000
Total Pipeline	$365,000	$412,000
General and administrative	$240,000	$283,000
Fundraising	$121,000	$141,000
Total expenses	$726,000	$836,000
CHANGE IN NET ASSETS	($550,000)	($27,000)
NET ASSETS - BEGINNING OF YEAR	$3,696,000	$3,723,000
NET ASSETS - END OF YEAR	$3,146,000	$3,696,000

The accompanying condensed financial statements are derived from the Foundation's audited financial statements, which received an unqualified opinion from Schneider Downs & Co., Inc. A complete copy of these financial statements is available by contacting **614.764.2727**.

Greta Russell, CPA

Proud CPA reflects on the history of ACAP-Ohio

OSCPA staff report

Although it's now almost expected for organizations to have diversity initiatives, The Ohio CPA Foundation has been working toward a more diverse accounting profession for decades.

Greta Russell, CPA, was instrumental in those efforts when she was appointed to what was then called the Executive Minority Committee by former OSCPA President Clarke Price in the mid-90s. It was during one of the committee's meetings to discuss how to bring minorities into the profession when she suggested the National Association of Black Accountants' effort called the Accounting Careers Awareness Program.

"We thought we need an awareness program to help students before they get to college," Russell said. "We wanted to reach out to high school students and give them some encouragement to help them see that it was a viable profession and you needed to take it seriously."

They decided to partner with NABA to create ACAP-Ohio, with the program geared toward racially and ethnically underrepresented high school students interested in exploring careers in accounting and business. Students would spend a week on a college campus learning from local CPAs and business leaders, attending workshops, touring businesses and more. Russell said from the first program launch in 1995 it's remained popular.

The location has changed over the years, starting at Otterbein College and then Capital University before moving to The Ohio State University. The program selects participants from all over the state, giving the students a chance to make connections and meet new friends who have similar interests in the profession.

Celebration of the ACAP-Ohio's 25th year has been moved to 2021 because of the coronavirus pandemic. Reflecting on the impact of the program over the years, Russell said it's made an invaluable difference in the lives of students.

"I still get emotional about it," she said.

Russell said the exposure students receive while at ACAP-Ohio has a trickle-down effect that opens up a future of possibilities. Although she acknowledges that an awareness program means there is a risk in the students not entering accounting later on, she says it's well worth it for the benefit of the students and the profession.

"To go away for a week and interact with students that want to succeed and have their eyes open was very meaningful," she said. "It is just as important today as it was 25 years ago."

THE OHIO CPA FOUNDATION

Investing in the Future

Support for The Ohio CPA Foundation programs is made possible by Foundation donors.
For more information contact lsbrown@ohiocpa.com

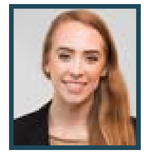
members in motion


Brett Buehler, CPA


Dan Conroy, CPA


Tyler Gabalski, CPA


Leah Mussay, CPA


Leah Rogers, CPA


David Rudischum, CPA


Jessica Weeks, CPA

AKRON

Richard Fedorovich, CPA, managing partner and CEO of Bober Markey Fedorovich, was named chair of the Cleveland Leadership Center board.

CINCINNATI

Dan Conroy, CPA, has been promoted to manager, tax and business advisory services at GBQ.

CLEVELAND

Leah Mussay, CPA, COO of True Digital Communications was recently named treasurer of the Group board of The Worldcom Public Relations Group.

COLUMBUS

Michael Borowitz, CPA, was named the shareholder in charge of Clark Schaefer Hackett's Columbus office.

Brett Buehler, CPA, has been promoted to manager, assurance and business advisory services at GBQ.

Tyler Gabalski, CPA, and Leah Rogers, CPA, have been promoted to manager, tax and business advisory services at GBQ.

Tobin Perrill, CPA, has been promoted to senior manager, assurance and business advisory services at GBQ.

David Rudischum, CPA, and Jessica Weeks, CPA, have been promoted to director, assurance and business advisory services at GBQ.

Michael Schultz, CPA, has been promoted to senior manager, transaction advisory services at GBQ.

DAYTON

Jim Haubrock, CPA, shareholder at Clark Schaefer Hackett, has been selected to serve as a special government employee member of the ERISA Advisory Council.

CLASSIFIED

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disciplinary actions 2020

Buffenbarger, David J. of Mason, OH

As a result of an investigation of alleged violations of the codes of professional conduct of the AICPA and the Ohio State Society of Certified Public Accountants (OSCPA) Mr. Buffenbarger entered into a settlement agreement under the Joint Ethics Enforcement Program, effective Jan. 27, 2020. Information came to the attention of the ethics charging authority (ECA — AICPA Professional Ethics Executive Committee and OSCPA Professional Ethics Committee) alleging a potential disciplinary matter with respect to CPE hours Mr. Buffenbarger submitted to the Accountancy Board of Ohio. The ECA reviewed the complaint and Mr. Buffenbarger's responses to the ECA's inquiry as well as other relevant documents he submitted to support his response. Based on this information, the ECA charged Mr. Buffenbarger with a violation of the rules of the AICPA and OSCPA codes of professional conduct as follows:

The Acts Discreditable Rule (1.400.001) for misrepresenting the number of CPE hours obtained and reported to the Accountancy Board of Ohio

Agreement

In consideration of the ECA forgoing further investigation of Mr. Buffenbarger's conduct as described above and in consideration of the ECA forgoing any further proceedings in the matter, Mr. Buffenbarger agreed as follows:

a. To waive his right to a hearing under OSCPA bylaws article VII, section B and AICPA bylaws section 7.4.

b. To neither admit nor deny the above specified charges.

c. To admonishment.

d. To submit evidence of satisfactory completion of the 3-hour *Ohio CPA Professional Standards and Responsibilities* course within 6 months of the effective date of this agreement.

e. That the ECA shall publish his name, the charges, and the terms of this settlement agreement.

f. That the ECA shall monitor his compliance with the terms of this settlement agreement and initiate an investigation where the ECA finds there has been noncompliance.