

## PACIFIC BUSINESS NEWS

THE BUSINESS OF LAW  
EXPERT LEGAL ADVICE FOR HAWAII'S SMALL BUSINESS

This advertising service is intended for information purposes only. To schedule an appointment or address additional information, please forward questions to the respective legal professional's email address.



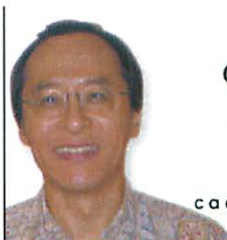
**Michelle H. Tucker**  
michelle@sterlingandtucker.com  
(808) 531-5391  
Haseko Center  
820 Mililani St. 4th Fl.  
Honolulu, HI 96813  
www.sterlingandtucker.com

STERLING  
TUCKER LLP  
A Limited Liability Law Partnership



**John D'Amato**  
jdamoto@benefitlawyers.com  
(808) 546-5200  
900 Fort Street Mall  
Pioneer Plaza #1680  
Honolulu, HI 96813  
www.benefitlawyers.com

D'AMATO &  
MALONEY



**Martin E. Hsia**  
cades@cades.com  
(808) 521-9200  
1000 Bishop Street,  
Suite 1200  
Honolulu, HI 96813  
www.cades.com

cades · schutte



**Matt Matsunaga**  
mmatsunaga@sil-law.com  
(808) 523-6061  
Topa Financial Center  
745 Fort Street, Suite 1500  
Honolulu, HI 96813  
www.sil-law.com

SCHLACE ITO LOCKWOOD PIER & ELKIND  
A Leana Law Firm

## TOPIC

**Year-End Tax Planning Time**

Sadly, Holiday Time is also Year-End Tax Planning Time. As 2009 draws to an end, so too will several tax breaks.

**Non-itemizer Deduction for Real Property Taxes:** If you own a home but do not itemize deductions, which is true for many seniors, this year but not next you can add your property tax to your standard deduction. So, prepay your property tax.

**Charitable Donations from IRAs:** If you are over 70 ½, this year but not next you can make charitable donations directly from your IRA, which is especially appealing for non-itemizers.

**Teacher Expense Deduction:** Non-itemizing teachers can deduct \$250 for school supplies, so buy them this year rather than next.

**College Tuition Deduction:** Up to \$4,000 in college tuition is deductible this year even if you don't itemize; not so next year.

**0% Capital Gains Tax Rate:** If your taxable income including long-term capital gains and qualifying dividends is below \$67,900 (for married couples – for singles, below \$33,950), you pay no tax on long-term capital gains and qualifying dividends. If your income is too high, perhaps gift appreciated stocks to your children who would qualify.

And don't forget the traditional year-end tax planning moves – increasing your deductions, deferring your income, bunching itemized deductions, harvesting capital losses, etc.

You know what they say – consult your tax advisor. As a gift to your tax advisor, call her early.

*Happy Holidays!*

## TOPIC

**Relief from 6707A Penalties?**

It looks as though some relief from 6707A penalty taxes may be on the horizon.

If you own a small business and invested in a tax shelter determined by the IRS to be particularly abusive (i.e., a "listed transaction"), then you may have learned to your dismay that you are subject to penalties of \$100,000 and \$200,000 per year on your personal and business tax returns, respectively, for failing to disclose participation to the IRS. Those taxes were added to the Code in 2004 to drive tax shelter promoters out of business. But many promoters just continued to do business as usual, with the result that many small business owners now face potentially bankrupting penalty tax assessments.

Recognizing that the taxes under Section 6707A are grossly disproportionate to the violation, a bill has been introduced in Congress that would limit the tax per return to 75% of the tax benefit (but no less than \$10,000).

The bill has bipartisan support, and it looks like some version of it will pass. The best advice, however, remains that old saying, "If it sounds too good to be true..." If someone pitches a tax shelter idea to you—especially one that's been "approved" by the IRS—ask a lawyer or CPA. The couple hundred dollars you will spend could save you tens of thousands in penalties, back taxes, and stress.

## TOPIC

**A Common Intellectual Property Myth**

I paid for the software/website/photograph so I own it.

**REALITY:** Under copyright law, the rights to make, distribute and adapt creative works belong exclusively to the author. The only exceptions are (a) if the author was an employee, acting within the scope of employment; and (b) if there was a written agreement and the work was one of 9 special types of works (software, music, books are NOT included). Copyright rights can only be transferred in writing. Independent contractors are NOT employees. So if you want to legally make, distribute or adapt creative works, you must have any independent contractors transfer all their copyright rights to you in writing.

*Martin E. Hsia is a registered patent attorney, one of the few patent attorneys in Hawaii. He practices patents, trademarks, copyrights, trade secrets, computer, licensing and entertainment law at Cades Schutte. Cades Schutte is one of Hawaii's largest full-service law firms with over 70 attorneys serving local, national and international clients.*

## TOPIC

**Hints For Effective Lobbying**

When the Legislature convenes, it will consider numerous issues including the State budget, taxes and business regulations. It will likely consider a bill that affects your business. Rather than read about a decision after the fact, here are seven hints for effective lobbying to influence the decision while it's being made.

**1. Be Prepared.** Read "The Legislative Process," at [capitol.hawaii.gov](http://capitol.hawaii.gov). Know this website. Build a coalition that shares your viewpoint. Know your subject, and deliver a thoughtful, clear, and concise message to legislators.

**2. Assess need to hire lobbyist.** Does your group have a lobbyist? The list of registered lobbyists is at [hawaii.gov/ethics/lobby](http://hawaii.gov/ethics/lobby). Ask around about a lobbyist's reputation before hiring.

**3. Be polite and respectful.** This seems obvious, but you'd be surprised how many people threaten legislators.

**4. Always keep your word.** Your reputation is paramount. Never lie and always follow up as promised.

**5. Target and Time your message.** Convey the right message to the right person at the right time. A good message delivered too late is like proposing to a married woman.

**6. Persist.** Kapolei wasn't built in a day. Don't expect instant results. The relationships you build will pay off later.

**7. Prioritize.** What are your priorities? Sometimes half a loaf is better than none.

12/2/09