

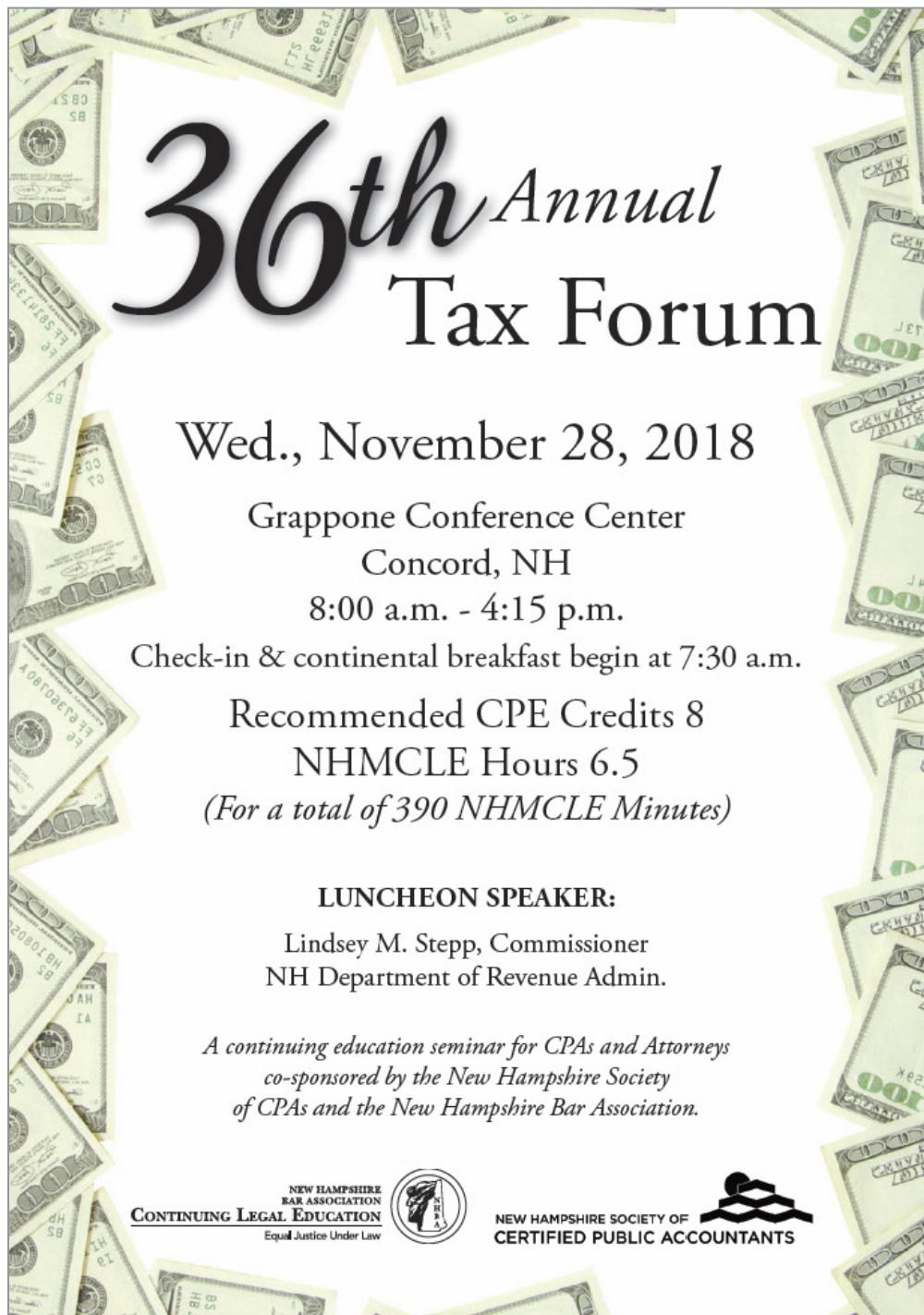
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# CONNECTION

FALL 2018

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## 36<sup>th</sup> Annual Tax Forum

Wed., November 28, 2018

Grappone Conference Center  
Concord, NH  
8:00 a.m. - 4:15 p.m.


Check-in & continental breakfast begin at 7:30 a.m.


Recommended CPE Credits 8  
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(For a total of 390 NHMCLE Minutes)

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# From the **President**



**Evan Stowell, CPA**  
*2018-19 NHSCPA President*

While many of us had the opportunity to enjoy some time away from the hustle and bustle with family, friends and some beautiful summer weather the Society has been busy with some wonderful events. Two great events worth highlighting are the 2018 Emerging Leaders Summit held at Southern New Hampshire University with well over one hundred in attendance! As well as our very own Young Professionals event at Stoneface Brewery in Newington. Thank you to all of our sponsors, staff and committee volunteers for making these great events happen!

As we head into the Fall season - with the kids back at school, football on TV and pumpkin flavored everything taking over – please take a minute to head over the Society website to check out some exciting CPE offerings! The Society staff have some incredibly relevant courses and wonderful presenters lined up this fall. With a variety of courses related to the new tax law changes, accounting updates, small firms conference and new staff soft skills, there is something for everyone. During this time where many state societies have been forced to drastically scale back, or even eliminate live CPE, it is wonderful that we are still able to provide our members with such relevant and timely content and top-notch discussion leaders, many of which are local to New Hampshire or New England.

Mark your calendar for Surgent McCoy's Tax Camp with Sue Smith, which we have moved to the Event Center in Nashua. There is also the 36th Annual Tax Forum on November 28th at the Grappone Conference Center in Concord. Lastly, on December 6th the NHSCPA will be hosting our Annual Wine Tasting in conjunction with our new Volunteer Awards Ceremony at the NH Food Bank in Manchester. We are working on some exciting new changes to this event, you won't want to miss it!





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**Robin Abbott, CEO**

It's been a busy end to our summer, particularly with our statewide firm visits, regional Town Hall meetings and most notably, our Emerging Leaders' Summit that took place at SNHU in collaboration with the NH Bar and NH Bankers Associations. We heard from many participants how inspiring and informative our presenters all were, and could not be more appreciative of everyone's support and commitment to this dynamic group of future NH leaders.

Our professional collaborations have most certainly been one of our best organizational efforts. They include quarterly meetings with the NH Dept. of Revenue, joint CPE seminars with the Maine Society of CPAs and Corporate Sponsored events. We are so happy to help be a supportive conduit of our business affiliates, and would love to hear your ideas on how to keep this momentum and expansion growing. As always, thank you to all of our sponsors for helping us build on our successes and grow our possibilities. We could not accomplish all that we do without you.

In addition to our quality professional education, our promise and commitment continues to incorporate change and flexibility in our business practices as well as focus on community involvement. Our partnership with Volunteer NH to support nonprofits in NH is one such step in this important direction. We hope you reach out to us to learn about ways to get involved.

Our goal at the Society has been to increase attendance, visibility, and excitement around our member events. From what we're experiencing with our Young Professionals Committee, led by Zach Nowlan, we are well on our way. The "Beers after Work" event in Portsmouth was a huge success, and highlighted our hopes to bring that caliber of networking beyond Manchester. Please watch for these announcements as the year progresses, and of course, stay connected to us through our website, new mobile app or on LinkedIn.

I would be remiss to exclude noting our 4th Women's Golf event that we just held last week. Yes, our members and business partners also know how to add in a little fun during our busy schedules. It was a fun-filled day had by all and we are especially pleased to have incorporated a portion of the proceeds to benefit Girls Inc. What a great show of support for our future women business leaders. Thank you to all who participated.

Finally, to our NHSCPA members, thank you, as always, for your commitment, service and support of our Society. As Mohammed Ali eloquently stated, "Service to others is the rent you pay for your room here on earth."

With gratitude,

A handwritten signature in black ink, appearing to read "Robin Abbott".

**Robin Abbott, CEO**





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# Transforming Your CPA Firm

## *Elevating CPA Firm Staff Efficiency with a Move to the Cloud*

By Darren Root

Just this morning, I was thinking back over the last few years. It's astonishing to me that the world looks significantly different than it did just a few years ago. Artificial Intelligence and machine learning are dominating new investment dollars for businesses and software developers. And driver-less cars are an actual reality. There is no arguing that change is rapid and constant, and the accounting profession is no different.

Today, cloud technologies are at the center of a modern, well-run CPA firm. The cloud has been evolving over the last ten years. While many firms have made the transition, there are several that have yet to make the move. This is a change that cannot be negotiated. The cloud is the key to operating at peak efficiency, so the time to transition is now.

### Efficiency

I've long had my firm in the cloud. We won't even consider any solution that is not accessible via a browser and a supporting mobile app. A core motivator for us is our staff. We consistently ask ourselves: "How can we set up staff to work most efficiently?" The primary answer is always: The cloud. We rely on cloud technologies to streamline both client work and internal communications, so staff are always operating as efficiently as possible.

### Accessibility

First considering client work...our firm has relied on Right Networks to streamline transactional processes. For example, via the cloud, staff can easily access client data whenever needed— daily, weekly, monthly or quarterly in order to produce on-demand financial reports and process tax returns in a timely manner. This also enables staff to clean



up data along the way, instead of waiting on data backup files. Without the cloud, we could not provide our clients with the level of service we do.

### Communication

For internal communications, we also have moved entirely to the cloud. Just this year, we transitioned our firm to Google's G-Suite productivity tools and Slack for internal employee communication. Salesforce serves as our CRM system, and Liscio is in place as our client communication platform. Combined, these systems offer a powerful, integrated and efficient cloud technology infrastructure for our staff to collaborate with one another and clients. It's all cloud all the time in our firm, and we wouldn't (and couldn't) have it any other way!

We've drawn a definitive line in the sand when it comes to cloud technology. Basically, it's the cloud or nothing. It's the way our staff want to work, and the only way to ensure we are always running at peak productivity and supporting our clients with the level of service they've come to expect of us.

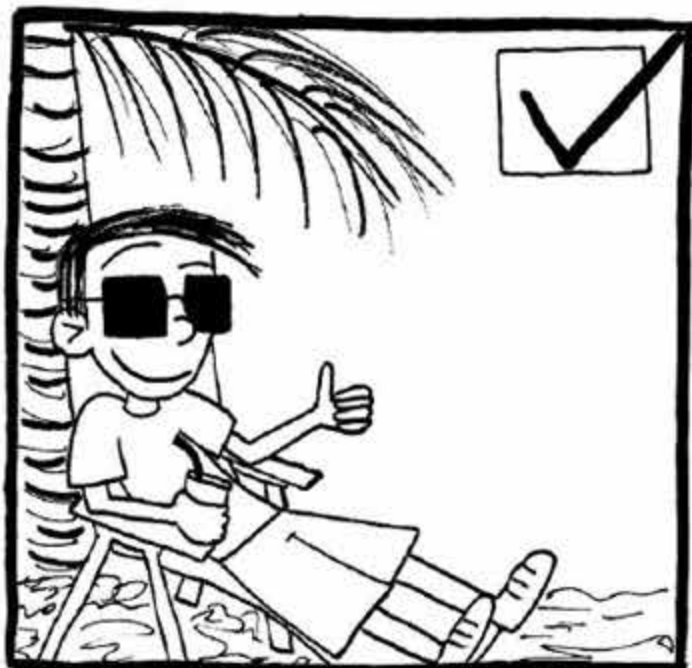
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If you are looking for more information and even a road-map to moving your firm to the cloud and becoming a modern firm, visit us at [rootworks.com](http://rootworks.com) and create a free trial account. Reprint permission given to the NH Society of CPAs by Right Networks





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*Cartoon by: Ashley Klein*

# ***South Dakota v. Wayfair, Inc.,*** **Supreme Court Changes the Rules for Sales Tax Collection**

By John E. Rich, Jr. and Beth Fowler



In a long awaited decision reversing 26 years of precedent, on June 21st the United States Supreme Court ruled in ***South Dakota v. Wayfair, Inc.***, that states and other taxing jurisdictions could require out of state retailers to collect sales tax on online sales even though the retailers had no physical presence in the taxing jurisdiction.

## **South Dakota's Sales and Use Tax law**

South Dakota, like approximately forty-four other states, taxes the retail sales of goods in the State. Like several other states, it also taxes the sale of services. If the selling retailer does not remit the sales tax, then in-state consumers are separately responsible for paying a use tax at the same rate. Under United States Supreme Court Commerce Clause decisions prior to ***Wayfair***, a State could not require a retailer to collect sales tax if the business did not have a physical presence in the State. When out-of-state retailers sold to South Dakota residents, South Dakota had to rely on its residents to pay the use tax owed. As the Supreme Court noted in its opinion, use tax compliance rates are very low. The South Dakota Department of Revenue had estimated that revenue losses were from \$48 to \$58 million annually. To address the loss of revenue, in 2016, the South Dakota Legislature enacted a law requiring out-of-state sellers to collect and remit sales tax "as if the seller had a physical presence in the State." The law covers sellers that, on an annual basis, deliver more than \$100,000 of goods or services into the State or engage in 200 or more separate transactions for the delivery of goods or services into the State. The law prohibited the retroactive collection of taxes until the constitutionality of the law was established.

## **Case History and Prior Supreme Court Cases**

To determine the validity of the law, South Dakota filed a declaratory judgment action in South Dakota state court against on-line retailers *Wayfair, Inc.*, Overstock.com, Inc., and Newegg, Inc., seeking an injunction requiring the retailers to comply with state law requirements to register for licenses to collect and remit sales tax. The retailers, who were all large online retailers with no employees or real estate in South Dakota, filed a motion for summary judgment arguing that the law was un-constitutional under existing United States Supreme Court decisions in *National Bellas Hess, Inc. v. Department of Revenue of Ill.*, and *Quill Corp. v. North Dakota*. The retailers prevailed throughout the South Dakota court system, as the South Dakota courts all agreed that the law violated the Commerce Clause of the United States Constitution, which grants to Congress the power to regulate commerce in the United States. Under prior Supreme Court precedent, the Supreme Court had interpreted the Commerce Clause to prohibit State regulations from discriminating against interstate commerce and prohibiting States from imposing undue burdens on interstate commerce. Thus, the Supreme Court had interpreted the Commerce Clause to not only grant power to Congress but also limit the ability of states to regulate interstate commerce. The Supreme Court had previously permitted state taxes if the tax (1) applies to an activity with a substantial nexus with the taxing State, (2) is apportioned fairly, (3) does not discriminate against interstate commerce, and (4) is fairly related to the services the State provides. In the *Bellas Hess* decision, the Supreme Court ruled that a mail-order company with no physical presence in Illinois such as retail outlets, solicitors, or property lacked the requisite minimum contacts with the State

CONTINUED ON PAGE 9 >



required by the Commerce Clause. In the 1992 *Quill* decision, the Supreme Court reaffirmed that a state could not require an out-of-state mail-order house that had neither outlets nor sales representatives in the state to collect and remit sales tax on goods purchased for use within the State. The Court stated that the physical presence rule was necessary to prevent undue burdens on interstate commerce. Without the physical presence rule, the Supreme Court reasoned that a State tax law affecting interstate commerce would not meet the requirement that a tax have a “substantial nexus” with the activity being taxed. Relying on existing United States Supreme Court precedent, the South Dakota Supreme Court agreed with the retailers that the tax violated the Commerce Clause. In its opinion the court stated, “However persuasive the State’s arguments on the merits of revisiting the issue, *Quill* has not been overruled [and] remains the controlling precedent on the issue of Commerce Clause limitations on interstate collection of sales and use taxes.” South Dakota appealed the decision to the United States Supreme Court.

### Supreme Court Decision

In a split five to four decision, the Supreme Court in *Wayfair* ruled in favor of South Dakota, holding that the portion of the law requiring a remote seller without any connection to the state to collect and remit sales tax did not violate the Commerce Clause. The Court determined that a physical presence was no longer a requirement for a State to apply its sales tax laws to an activity with substantial nexus with the State. The Court viewed the compliance costs for remote sellers to be secondary to the importance of creating an even playing field for local businesses versus remote sellers such as *Wayfair* and the other parties to the case.

### What Happens Next

In the past several years, multiple states have adopted laws seeking to circumvent the physical presence

requirement. In anticipation of the Supreme Court ruling in *Wayfair*, numerous states have enacted new laws designed to require on-line retailers to collect sales tax. In New England, for example, Vermont adopted a law applying the same \$100,000 or 200-transaction standard as South Dakota’s law, making the law effective upon a favorable decision in *Wayfair*. With the *Wayfair* decision validating South Dakota’s law, we expect many additional states will adopt laws using volume of sales as a trigger to require sales tax collection.

The *Wayfair* decision, and rush of states adopting similar remote seller nexus laws, creates enormous compliance costs for businesses that sell remotely. As noted in Justice Roberts’ dissenting opinion, there are over 10,000 sales tax jurisdictions in the United States. There are different tax rates, different rules

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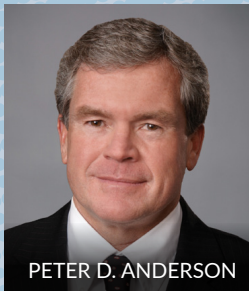
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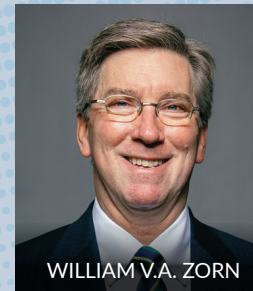
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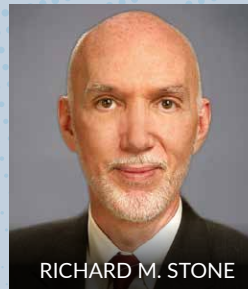
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governing tax-exempt goods and services, different product category definitions, and different standards for determining whether an out-of-state seller has a substantial presence requiring collection and remittance of sales tax. Examples cited in the opinion include Illinois, which taxes Twix and Snicker candy bars differently because Twix has flour and Snickers does not.

### **Fulfillment centers – an additional complication**

Compliance issues are more complicated for remote sellers who utilize fulfillment services such as those provided by Amazon and Wayfair. When utilizing fulfillment services, a seller ships product to the fulfillment service provider. The fulfillment service provider stores that product at one of its facilities and then ships the product to buyers who purchase the product through the fulfillment service provider's website. A remote seller has physical presence in every state in which its products are stored and, therefore, is responsible for collecting sales tax in those states. Because the remote seller does not control at which fulfillment centers its products are stored, the remote seller has no control over the states in which it is required to collect sales tax. Multiple states such as California and Washington are now auditing remote sellers who have inventory in an in-state fulfillment center. Based on our experience, it appears that the audits initiate from information obtained from auditing the fulfillment service provider. Many states are aggressive in fulfillment center audits, requiring tax payments back to the first year in which any remote seller product was located in the state.

### **Moving forward in a changing landscape**

The Wayfair decision found South Dakota's \$100,000 or 200 transaction requirement established substantial nexus. The decision did not otherwise define what constitutes substantial nexus. Several states, including

Oklahoma, Pennsylvania, and Washington have adopted statutes setting a much lower \$10,000 sale threshold. Thus, businesses that are remote sellers should not assume that collection responsibility will attach at only the \$100,000 or 200 transactions per year threshold. Whether \$10,000 of sales constitutes substantial nexus enabling imposition of a sales tax collection responsibility is an open issue. In lieu of action by Congress setting a national standard, it would not be surprising if there is additional litigation on the issue of how much activity is required to establish substantial nexus.

The multiplicity of taxing jurisdictions, frequent changes in sales tax laws, and lack of consistency in the laws, will require remote sellers to devote significant time to sales tax compliance. Most problematic will be those states that seek to impose tax retroactively. Although the South Dakota law at issue in Wayfair does not impose retroactive liability, in general states can legally collect retroactively, and several have aggressively done so particularly with fulfillment center based audits. In the past, states have established limited amnesty programs whereby business could file retroactively, and receive some reduction in total amount of taxes, penalties and interest.

We recommend all businesses that are remote sellers that are not already collecting sales tax begin determining the number of sales and value of sales into each state. Those using a fulfillment service provider also need to obtain information from the fulfillment service provider on where their product has been stored in the past several years. With this information, remote sellers can begin to assess their current and future sales tax compliance obligations. In the event a state opens an amnesty program, the business will be ready to participate. Because of the complexity of complying with a multiplicity of inconsistent sales tax regimes, remote sellers should also consider seeking professional assistance.

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# Highlights from the Emerging Leaders' Summit



On Tuesday, August 28th, the NHSCPA, New Hampshire Bar Association and NH Bankers Association held the 2nd Annual Emerging Leaders' Summit. The summit was a huge success with over a hundred bankers, accountants and attorneys present. Our future leaders heard from top local business leaders, Howard Brodsky of CCA Global, Arthur Sullivan of Brady Sullivan Properties, Ryan Barton of Mainstay Technologies, and Jason Alexander of Bank W Holdings to state a few. They also heard from experts like Lindsey Stepp, Commissioner of the NH DRA, Joe Murray of Fidelity, Pubali Chakravorty-Campbell of HR Partners, and more. The event was moderated once again by professional development expert, and 2018 AICPA Top Women in Accounting recipient Jennifer Elder, CPA, CMA, CIA, CFF, CGMA, MS. Thank you to everyone who attended, spoke, supported and sponsored this event! We can't wait to see you all in 2019!



CONTINUED ON PAGE 14 >



## Emerging Leaders' Summit

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### Some take-aways from the event:

- Do the unexpected
- Ask questions
- Ask better questions
- Welcome conflict
- Be open to new ideas
- Visualize where you want to be in 5 years and then set goals to achieve that vision
- Disable email notifications
- To be resilient and listen better
- Schedule deep work & disable e-mail notification
- Find meaning behind my tasks/Job/ect
- Be the 1 to set the bar & expectations
- Time management/ work life balance goal to vision
- Ask my team what they expect from me.
- Power of social media
- Ask employees what I can do for them
- Write short-term goals and review them regularly
- Time management-goal setting
- Asking team what's one thing they think that I could do better as a leader
- Express gratitude and implement more team building
- Spending time or investing time
- You can have it all when what you do is centered around what matters to you
- Work Deep
- Be open minded
- Do something surprising and not just something that is expected of you
- How to be more resilient
- Conflict isn't a bad thing
- Time management perseverance resilience.
- Theme your days, weeks, or work to be consistent, relevant and focused
- Time management techniques
- To not be afraid of conflict
- Read more than 1 book at a time.
- Promote flexibility
- Do the unexpected
- Neuro marketing
- Lean into conflict
- I need to read more books



Work Life Panel Group



Unconventional Leaders Panel

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## UP TO THE PROMISE

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## Tyler, Simms & St. Sauveur Volunteer for a Day!



For the second year in a row, we closed the office for the day and all of our employees spent the day volunteering at David's House. David's House provides a home-away-from-home and support for families with children receiving treatment through the Children's Hospital at Dartmouth-Hitchcock Medical Center.

We had more than 40 people working on a variety of projects inside and out. The projects ranged from cooking and cleaning (sanitizing toys) inside to yardwork, painting and oiling of the playground equipment outside. We took a break around noon to enjoy lunch together with our staff, their staff and some of the families who were staying at house. After lunch we got back to work for a few hours. It was a full, and very rewarding day.



Leone, McDonnell & Roberts (LMR) is pleased to announce that **Ryan Maran, CPA** passed all four components of the CPA examination. Ryan has also been promoted to Supervisor. **Jason Gaskell**, licensed CPA, has been promoted to Manager, and **Kim McLaughlin** and **Thomas Vanderhoof** have both advanced to the position of Senior Accountant. LMR shareholder **Paula DePlanche, CPA** has been a distinguished leader for the American Lung Association in New Hampshire. As she celebrates 30 years with Leone, McDonnell & Roberts, PA this November, she also celebrates 11 years of volunteerism with the American Lung Association. LMR is also pleased to welcome three new employees to its professional staff, **Rachelle Burnham** of Lee, **Abby Lamothe** of Dover and recent University of New Hampshire graduate **Christine Chrysafidis**.

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Nathan Wechsler & Company, PA (NWC) is pleased to share that firm principal **Kirk Leoni, CPA** was re-elected as Treasurer of Child and Family Services and recently served as a panelist on Board Governance for the New Hampshire Center for Nonprofits. NWC is also pleased to announce that **Ashley L. Guion, CPA** recently graduated from the Leadership Monadnock program. **Jameson P. Meschino, CPA**, has been elected as Treasurer of the Board of Directors for the Animal Rescue League of New Hampshire. **Stephanie R. Kondvar, CPA**, **Sarah R. Wright, CPA**, and **Nina Ann Timney** have all been awarded promotions at NWC. Kondvar and Wright have both been with the firm since 2014 and will be serving as supervising seniors. Timney is taking on the new role of senior. **Debra L. Achramowicz, CPA**, was recently elected to a one year term as

Treasurer of the Board of Trustees of the Visiting Nurse Association of Manchester and Southern New Hampshire. **Oreste "Rusty" Mosca, CPA**, recently took on the new role of Chair of the Merrimack County Campaign Cabinet of the Granite United Way. **Ashley E. Kinville, CPA** of NWC recently joined the Young Professionals Committee of the New Hampshire Society of Certified Public Accountants (NHSCPA). NWC is also very happy to welcome **Ashley Barbera** and **Melissa L. Ellstein** to their professional team.

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**Baker Newman Noyes** launched the **BNN Culture & Career Summit** (formerly known as the Three Day Experience), a unique "pre-internship" for undecided undergrads to experience a career in public accounting and consulting firsthand. The program combines job shadowing, mentoring, community service and social activities to give students a fuller view of the opportunities available in accounting and related consulting fields here in New England, commitment-free.

---

The law firm of McLane Middleton, Professional Association is pleased to announce that the firm received a Band 1 ranking in Chambers' High Net Worth Guide – Private Wealth Law section. In addition, attorney **Steve Burke, CPA** was given Band 1 rankings.

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# Legislative Changes

## **BUSINESS TAX**

**HB 1292 (Chapter 11)** makes only a technical change to the effective dates of Laws of 2017, chapter 156, sections 213 to 216, which reduced the rates of the Business Profits Tax and the Business Enterprise Tax for tax years 2019 and 2021, from July 1 to January 1 of the respective calendar years. It does not substantively change the rate reductions which continue to apply to taxable periods ending on or after December 31, 2019, and December 31, 2021.

*Statutes Amended: RSA 77-A:2 and RSA 77-E:2.*

*Effective Date: June 19, 2018.*

**HB 1819 (Chapter 357)** makes various changes to the administration of the education tax credit program, including the definition of “program year” from a calendar year to one beginning July 1 and ending June 30, and its application procedures. It also allows a business organization or business enterprise to carry forward any unused portion of the education tax credit amount granted by the DRA for 5 succeeding years, but not more than \$1,000,000 in any given tax year.

*Statute Amended: RSA 77-G.*

*Effective Date: July 1, 2018.*

**SB 564 (Chapter 157)** establishes exemptions for a qualified regenerative manufacturing company from the Business Profits Tax and the Business Enterprise Tax. It requires a business organization or business enterprise which otherwise meets the requirements to be a qualified regenerative manufacturing company to also file an election with the DRA, which expires for taxable periods beginning after December 31, 2027. It also provides for a regenerative manufacturing workforce development program administered by the business finance authority.

*Statute Added: RSA 77-A:5-c.*

*Statutes Amended: RSA 77-A:1 and RSA 77-E:1.*

*Effective Date: July 29, 2018.*

## **INTEREST AND DIVIDENDS TAX**

**HB 1686 (Chapter 341)** allows individuals (including “any entity having taxable interest and dividend income as described in RSA 77:3”) to apply for and, if granted by the DRA, use an education tax credit against the Interest and Dividends Tax.

*Statutes Amended: RSA 77-G and RSA 77:18.*

*Effective Date: July 1, 2018.*

## **REAL ESTATE TRANSFER TAX**

**HB 1251 (Chapter 171)** removes the references to stamps as being required to indicate payment of the Real Estate Transfer Tax (RETT) and the land and community heritage investment program (L-CHIP) recording surcharge, in RSA 78-B and RSA 478:17-g, II(d). It modernizes the statutes to reflect the fact that the registry of deeds no longer affixes physical stamps to the deed, assignment, or other instrument to evidence payment of the RETT and the L-CHIP surcharge, but rather electronically prints the amount paid.

*Statutes Amended: RSA 78-B and RSA 478:17-g, II(d).*

*Effective Date: July 1, 2018.*

## **MUNICIPAL AND PROPERTY**

**HB 324 (Chapter 238)** establishes a commission to study utility property valuation and recommend legislation to reform the current system of taxing utility property in New Hampshire. The commission is composed of 11 members, including one representative from the DRA.

*Statute Added: RSA 72:12-e.*

*Effective Date: June 12, 2018.*

**HB 1303 (Chapter 30)** authorizes a town to establish a revolving fund for the purpose of providing fire services, or both ambulance and fire services.

*Statute Amended: RSA 31:95-h, I(b).*

*Effective Date: July 14, 2018.*

CONTINUED ON PAGE 22 >

## Legislative Changes

< CONTINUED FROM PAGE 21

**HB 1304 (Chapter 61)** authorizes a county convention to appropriate a contingency fund for the purpose of a forensic audit of county financial matters.

*Statute Amended: RSA 24:13.*

*Effective Date: July 24, 2018.*

HB 1356 (Chapter 296, Section 3) clarifies that notwithstanding RSA 75:3, a campground owner is not responsible for payment of any property taxes imposed on a recreational vehicle located at the campground unless the campground owner is the owner of the recreational vehicle.

*Statute Amended: RSA 72:7-d, I(c).*

*Effective Date: June 25, 2018.*

**HB 1392 (Chapter 246)** authorizes a budget committee established under RSA 32:14 (in addition to the governing body) to require that the tallies of its votes relative to budget items or any warrant articles be printed next to the affected warrant article if the town or school district has not voted to require the same.

*Statute Amended: RSA 32:5, V-a.*

*Effective Date: August 11, 2018.*

**HB 1473 (Chapter 182)** authorizes a municipality to waive the yield tax on timber harvested from land

owned by, and located in, the municipality; eliminates the requirement of filing a supplemental notice when the total volume of the cut exceeds the total volume reported in the intent to cut by less than 25 percent, except where a bond is required by RSA 79:3-a or RSA 79:10-a, II; reduces the time for assessing officials to sign an intent to cut from 30 days to 15 days if all conditions for approval have been met, but allows them to sign it outside a public meeting; and requires a municipality to provide public notice of an intent to cut before it is signed by assessing officials.

*Statute Added: RSA 79:3-b.*

*Statute Amended: RSA 79:10, I(a) and (b).*

*Effective Date: September 1, 2018.*

**HB 1673 (Chapter 282)** lowers the interest rate charged on delinquent property taxes from 12 to 8 percent per annum, and on payments in redemption of real estate sold at tax sale or subject to a tax lien from 18 to 14 percent per annum. The lower interest rates apply to taxes assessed on or after April 1, 2019. It also changes the application deadline for a prorated assessment on a building damaged due to unintended fire or natural disaster from within 60 days of the event to within 60 days or by March 1, whichever is later.

*Statutes Amended: RSA 76 and RSA 80.*

*Effective Dates: April 1, 2019 for interest rates and January 1, 2019 for prorated assessments.*

**SB 340 (Chapter 50)** requires the DRA's assessment report to separately categorize compliance with findings that test current assessing practices since the year of the prior assessment report, examine permanent records, and summarize compliance in a single conclusion statement.

*Statute Amended: RSA 21-J:11-a.*

*Effective Date: July 14, 2018.*

**SB 341 (Chapter 105)** increases the maximum amount of the optional veterans' tax credit for

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# PERMANENT NEW TAX RULES

## EXPLORE THE OPPORTUNITIES

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## Legislative Changes

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service-connected total disability from \$2,000 to \$4,000.

*Statute Amended: RSA 72:35, I-a.*

*Effective Date: January 1, 2019.*

**SB 342 (Chapter 313)** changes the calculation of the default budget amount by requiring the governing body to also reduce the previous year's operating budget by the salaries and benefits for any positions that have been eliminated in the proposed budget. It also requires that the default budget be presented for questions and discussion at the first budget hearing, and that the line item details for changes to the previous year's operating budget be available for inspection by voters.

*Statute Amended: RSA 40:13.*

*Effective Date: August 24, 2018.*

**SB 503 (Chapter 148)** increases the maximum amount of the optional veterans' tax credit from \$500 to \$750.

*Statute Amended: RSA 72:28, II.*

*Effective Date: April 1, 2018.*

**SB 510 (Chapter 232)** requires the State or a county, city, town, school district, or village district which owns real or personal property used or occupied by others to annually provide written notice and a copy of the lease or other agreement to the assessing officials of the municipality in which the property is located.

*Statute Amended: RSA 72:23, I(b)(1).*

*Effective Date: January 1, 2019.*

**SB 511 (Chapter 151)** establishes an optional tax credit for members of the New Hampshire National Guard or reserve components of the United States armed forces engaged at any point during the tax year in combat service. The optional tax credit for combat service is an amount from \$50 to \$500.

*Statute Added: RSA 72:28-c.*

*Statute Amended: RSA 72.*

*Effective Date: January 1, 2019.*

## ADMINISTRATIVE

**HB 1104 (Chapter 279, Sections 6, 9 and 15)** reduces the time limits for agency action on applications, petitions, and requests under the Administrative Procedure Act, and provides that if an agency fails to act on an application, petition, or request within the prescribed time limits, it will be deemed approved. It also establishes time limits specific to action by the DRA on appeals for redetermination or reconsideration, namely, 60 days to examine the appeal and request any additional information, and 120 days to approve or deny the appeal or commence an adjudicative proceeding.

*Statute Added: RSA 541-A:29-a.*

*Statutes Amended: RSA 21-J:28-b and RSA 541-A:29.*

*Effective Date: January 1, 2019.*

**SB 406 (Chapter 52)** authorizes the Commissioner of the DRA to require a federal criminal history records check on any employee or candidate for employment for the purpose of determining the person's suitability to access federal tax information, as required by Internal Revenue Code section 6103(p)(4). It also authorizes the Commissioner to require only a state records check or both a federal and state records check for the purpose of determining the person's suitability to access state tax information.

*Statutes Amended: RSA 21-G:9 and RSA 21-J:3-a.*

*Effective Date: January 1, 2019.*

## MISCELLANEOUS

**HB 1817 (Chapter 162, Section 34)** removes the possibility of a future reduction in the rate of the Medicaid Enhancement Tax to the extent the total aggregate uncompensated care for hospitals with both a critical and a noncritical access hospital designation falls below \$375 million for the taxable period. The tax rate is currently set to remain at 5.4 percent.

*Statute Amended: RSA 84-A:2, V.*

*Effective Date: June 6, 2018.*



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## FALL / WINTER CPE CALENDAR

DATE	COURSE TITLE	VENDOR	CREDITS
10/3/18	Update on Tax Reform Law	McLane Middleton	2
10/29/18	This Year's Best Income Tax, Estate Tax, and Financial-Planning Ideas	Surgent	8
10/30/18	Practical Planning Boot Camp: S Corporations and LLCs	Surgent	8
11/1/18	Microsoft Office – Improving Productivity with New 2016 Features	The Software Trainer	4
11/1/18	Top Excel Tips and Tricks for Accountants	The Software Trainer	4
11/2/18	Small Firms Conference	NHSCPA	8
11/5/18	Determining How Much Money You Need to Retire: Practical Planning Strategies (DRMM)	Surgent	8
11/5/18	Steps for Success: Tips and Tricks for Developing Professionals	NHSCPA Young Prof.	8
11/6/18	Social Security, Medicare, and Prescription Drug Retirement Benefits: What Every Baby Boomer Needs to Know Now (SSRB)	Surgent	8
11/7/18	NH Taxation of Businesses and Their Owners	Devine Millimet & Branch	8
11/8/18	Implications of the South Dakota v. Wayfair, Inc., et al. and New Hampshire Statute on the Collection of Sales & Use Taxes by New Hampshire	Devine Millimet & Branch	4
11/9/18	Surgent's Federal Tax Camp	Surgent	8
11/13/18	The Essential Course for Preparing Not-for-Profit Financial Statements Under ASU No. 2016-14	Surgent	8
11/14/18	The New Revised Yellow Book- Government Auditing Standards	Surgent	4
11/14/18	Latest Developments in Government and Nonprofit Accounting (Afternoon)	Surgent	4
11/15/18	Compilation, Review & Preparation Update	Richard DelGaudio, CPA	8
11/16/18	Ethics- An Important Update	Richard DelGaudio, CPA	4
11/19/18	SECTION 199A/20% QBI DEDUCTION/TCJA/CTD	Boston Tax Institute	8
11/28/18	NHSCPA/NH BAR Tax Forum	NHSCPA	8
12/3/18	FASB and AICPA update	Loscalzo	8
12/4/18	Tax Practitioner's Guide for Accounting and Reporting Issues	Loscalzo	8
12/10/18	Complete Guide to Payroll Taxes and 1099 Issues (CGPT)	Surgent	8
12/11/18	Fiduciary Income Tax Returns - Form 1041 Workshop with Filled-in Forms (1041)	Surgent	8
12/13/18	The Best S Corporation, Limited Liability, and Partnership Update Course by Surgent	Surgent	8
12/14/18	The Best Individual Income Tax Update Course by Surgent	Surgent	8
12/17/18	A&A Update	Business Learning Institute	8
12/18/18	Risk Management - Disaster Recovery Planning	Business Learning Institute	8
1/7/19	Preparing Individual Tax Returns for New Staff and Para-Professionals (PITR)	Surgent	8
1/8/19	Tax Forms Boot Camp: LLCs, Partnerships, and S Corporations (TFBC)	Surgent	8
1/10/19	New Hampshire State and Local Taxation	McLane Middleton	4





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# THINK Before You Speak

By Pubali Chakravorty-Campbell

As an Organizational Strategy executive, communication is an enormous component of the work I do, both internally and externally. I am always trying to become a better communicator, not just for myself, but also on behalf of those I serve. In 1872 Mary Ann Pietzker wrote:

***Before you speak, think:***

**Is it necessary?**

**Is it true?**

**Is it kind?**

So simple. So obvious. So powerful. And yet...not what most practice. Myself included.

However, I came across an even better variation of that quote - even more striking:

***Before you speak, T-H-I-N-K:***

**Is it TRUE**

**Is it HELPFUL**

**Is it INSPIRING**

**Is it NECESSARY**

**Is it KIND**

I love this quote so much because it is a formula.

A formula that we can all easily apply when we are faced with a common challenge – especially in today's world: how to handle yourself when you hear something that offends you.

We have all witnessed a person saying something that we do not believe. That is offensive to us, or something that we care about. That is contrary to everything we value.

Typically, the very first reaction is an immediate shift in our emotional state. We will become angry, irritated, shocked, embarrassed, or even enraged. Following our emotional response, varying physical reactions occur:

- a rise in heart rate or blood pressure
- color creeping up the neck, into the cheeks, a flushed appearance, or blushing
- stomach pain or cramping
- sweating or a sense of being hot
- watering eyes, crying, or even laughing

Ultimately, what makes us - well, us - will determine what happens next.

- For many, it's a quiet departure from the conversation or room.
- For others, it's a quiet departure coupled with a visit to HR or another authority.
- For others, it is a quick, witty, or questioning verbal response.
- And for a select few, it's physical. The stuff bar brawls are made of.

What can you do when you hear something that offends you? Become a better communicator by using all, or even just parts of, the formula.

## Here's How To T-H-I-N-K

### TRUTH

- TRUTH. Not everyone speaks the truth. Not everyone's truth will match yours. Truth can be a highly subjective and easily contested thing. And we all know there are some who like to contest, which can cost us valuable commodities of time and energy.

**Ask yourself:** Is there value in sharing my version of the truth with this person? Is there safety in sharing my version of the truth with this person? Do I feel I can effectively and intelligently share my

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## THINK Before You Speak

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truth with this person right now? What is the real impact of hearing this person's truth on me? Answering these questions takes time. And I find the relationship between time and truth very interesting. Time is what prevents us from making mistakes in moment's passion, heat, or hate. Taking time to think things through can make you into a more effective communicator, especially when emotions are running high. I only wish more people thought more and spoke less – doing so really influences how much of what is said is fact vs. opinion. It is not incorrect to share your truth with someone in response to hearing their version – especially if they have offended you. It is incorrect to do so without thinking it through first.

### HELP

- HELP. Sometimes, we are one of two people in an offensive conversation. Sometimes, we are one of many. It seems strange, doesn't it, to include being helpful when on the receiving end of hurtful or untrue words?

But, it is a very effective tool. One so effective, that many of today's harassment or cultural integration training programs include 'How to help someone being verbally assaulted in public' content. So, here's the scoop. There are two angles to helping:

- Helping an offender
- Helping the offended

### Helping an Offender

Starting with the first angle: when we're the only one, one way to HELP the other party is by serving as a teacher. Am I talking about delivering a 10-minute lecture? No. I'm talking about issuing a

CONTINUED ON PAGE 30 >

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## THINK Before You Speak

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simple, but educational, statement...like this one: 'You see, I am exactly the type your joke was directed at... and hearing you say these words is offensive to me. If you want to learn why, I hope you'll come and talk to me about it. Otherwise, our discussion must end now.' The teaching moment here is acknowledging something inappropriate was said, that you're open to explaining why, but that until that opportunity presents itself, you're no longer engaging someone in discussion. Even if you need to be vague about why someone's words were offensive to you, you can still utilize this approach. Details aren't necessary required.

### Helping the Offended

The second scenario is being offended on behalf of another. In those moments, as our body and emotions begin to react, we have choices. Those choices include helping the person who has been offended. Sure, it might feel darn good to deliver a competing comment to the offending party, but, it may feel much better to...

- look at the offended (if appropriate) and ask them if they are ok.
- ask them if they would like your help to manage or handle the moment.
- gently take their arm and walk them away from the offender.
- if the conversation is a call, or video chat, to speak up and ask if

someone is ok, or, ask for a break so you can speak with them privately – or on a chat.

What I love about this option is that it removes the element of trying to control someone's behavior. Instead, it puts the focus on what someone can control: themselves. Provocative and easier said than done? Yes. Definitely. But a non-confrontational and workplace friendly way to manage an offensive situation? Yes. Definitely.

There are many ways to help in a moment of offensive behavior. I have shared just a couple here. But the point I'm making is this: HELPING may seem counterintuitive when you're upset, but, it's a powerful way to make a shift.

---

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## Update

By Zach Nowlan, YP Chairperson, Melanson Heath

We all know that work comes before play – and your YP Committee has certainly been hard at work this summer. The result of this hard work is the launching of one of the most highly anticipated CPE events in quite some time. ***Steps to Success: Tips and Tricks for the Developing Professional*** is targeted and designed to help the new professional (fresh to the industry to less than 3 years of professional experience) with some of the, many, soft skills they will need to be successful in their career. This 8-hour CPE is sure to polish the young professional while answering the questions that everyone has! With topics ranging from Time Management & Self Review to Relaying Your Needs (how to effectively communicate in a professional environment) this event is something you do not want to miss. We couldn't be more excited to offer this long overdue CPE to the new professional and know this is an area that all professional organizations have needed for quite some time. The event is scheduled for Monday, November 5th so stay tuned for more details and information on how to register!

While we've been working hard, we also realize it's summer and took a nice breathe of fresh air over by the coastline via our Beers Afterwork Networking Event held in Portsmouth, NH. The event was a great way to network and relax with a beer (or two) and enjoy some good company on a nice summer day. We're incredibly excited to welcome the new YP members from the Seacoast and are looking forward to having you at many future events! We'd like to thank Jill & Co. Realty Group for your sponsorship – it's very much appreciated!

Now, if you've read the prior NHSCPA Connection YP Update, you would have seen a note related to the NHSCPA App. If you enabled your push notifications, you have been receiving the YP Committee's Motivation Monday articles! These short reads are a great way to start your week and are full of topics that all professionals need in their repertoire. If you haven't downloaded the app and enabled your push notifications, be sure to do so to ensure you're receiving these articles!

On the horizon for your YP's is guaranteed to be the most fun networking event of the year. Your YP Committee is happy to announce our **Curling for CPAs Networking Event!** Yes, you read that correctly, curling. Inspired by the Gold medal winning USA Men's National Curling Team this event is for those interested in trying out the sport everyone has wanted to try. Stay tuned for more details on the event – you will not want to miss this!

Lastly, we're happy to announce the launch of year 2 of our NHSCPA Young Professionals Mentorship Program designed to Engage, Inspire, and Lead the emerging students throughout New Hampshire. If you're interested in becoming a mentor or have someone in mind that you feel could benefit from mentorship, please reach out to Juliana Summers! We are very excited to offer this program again and know that it will change the lives of our mentees.

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If you are a Young Professional, and are interested in joining the YP Committee, or attending a meeting, please contact Juliana Summers (jsummers@NHSCPA.org) for more information.

JOIN OUR NETWORK!





# Highlights from the 4th Annual NHSCPA Women's Golf Outing and Networking Event

## 1ST PLACE

Kelly McIntyre, Kayla St. Germain  
and Isabelle Sullivan



## 2ND PLACE

Rose Culver, Annette Slipp,  
Sheila Valley and Robin Wells



## 3RD PLACE

Lisa King, Dallas Lagerquist,  
Hope Martin and Patricia McGrath

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## Golf Highlights

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# Why You Should be Focused on Your Email Security

By Matt Mercier, Acapella Technologies

While it's been suggested that e-mail is dead, particularly among the young, it remains the primary means of communication in business environments. According to The Raticati Group, a technology market research firm, the number of business e-mails sent per day will exceed 128 billion in 2019 after growing by 3% per year. It's probably a safe assumption that, at least in business, that e-mail will remain a critical part of communication and the conveyance of information.

While some of this e-mail is trivial and annoying, a great deal of it is critically important. Much of the information sent through business e-mail is highly sensitive, and if that information were to fall into the wrong hands, the result can range from mildly troubling to catastrophic.

Sensitive information transferred by e-mail includes but is not limited to:

- Sensitive company information
- Personally identifiable information (PII)
- Company Financial Data
- Login credentials

While you can keep this information safe by using other forms of data transmission than e-mail, there is hope that e-mailed information is safe because of e-mail encryption.

As government regulations (both in the US and abroad) become more stringent and enforcement becomes more frequent, protecting your data and that of your customers becomes more important.

Digital Guardian, an electronic security firm, defines encryption: "Email encryption involves encrypting, or disguising, the content of email messages in order to protect potentially sensitive information from being read by anyone other than intended recipients."

Encryption requires the sender of information to take steps to make content unreadable to by anyone but the sender. The receiver of that information must be identifiable as the intended recipient. Both ends of this transaction can be confusing and confounding.

Aside from simply making e-mails unreadable by those who would misuse the data you send, it's important to make retrieving the information simple for the end user. Unless the retrieval of encrypted e-mails is easy, communications will remain unread or ignored.

If the choice of encryption methodology is made well, the conveyance of sensitive information can be simple and painless. Choosing products and services for encryption of e-mail is best accomplished with the help of an IT professional to be certain that all the right questions get asked and answered.

Wise business executives will not ignore the importance of protecting sensitive data. The risk of data hijacking and the number of nefarious players working to sniff out that data increases literally every day. Consult your chosen IT professional on the matter, heed their advice, and enact the solution they recommend. You'll be glad you did.

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Matt Mercier founded the company that would become Acapella Technologies in 1996. The company began as a web design company, and he got many businesses their start on the internet in the original NH Cybermall. Over the years Acapella Technologies has not only grown but expanded its offerings. Today they are a full-service technology services company. They do all of the work that a full time IT department does for large businesses, but do so in service of small and medium sized business all over southern NH and the Merrimack Valley. For more information or to contact Matt visit [www.acapella.com](http://www.acapella.com).





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# NLRB Reverses Course on Standard for Evaluating Employee Handbook Rules

By Rachel Adams Ladeau

On December 14, 2017, the National Labor Relations Board (Board) discarded its longstanding and employee-friendly approach to determining whether a facially neutral employer rule or policy unlawfully interferes with an employee's right to engage in protected concerted activity under Section 7 of the National Labor Relations Act (NLRA).

In a 3-2 decision split along party lines, the Board held in *Boeing Company*, 365 NLRB No. 154 (Dec 14, 2017), that it will now evaluate the validity of employer policies and rules by examining (a) "the nature and extent of the potential impact on NLRA rights," and (b) "legitimate justifications associated with the rule."

This decision overrules the 13-year-old standard established in *Lutheran Heritage*, 343 NLRB 646 (2004), under which the Board deemed facially neutral employer rules unlawful if an employee would "reasonably construe" the rule as prohibiting Section 7 activity, and follows the NLRB General Counsel's December 1 decision to withdraw a 2015 memorandum (GC 15-04) concerning the validity of common employer handbook rules.

In the decision below, the Administrative Law Judge had applied the *Lutheran Heritage* standard to invalidate Boeing's ban on camera-enabled devices on its property. The majority held this decision "expose[d] fundamental problems" with the Board's past approach to evaluating employer rules and policies. Cribbing from (now-former) Chairman Philip Miscimarra's dissent in *William Beaumont Hospital*, 363 No. 162 (2016), the majority described these difficulties as follows:

- The *Lutheran Heritage* standard provides for "single-minded consideration of NLRA-protected rights" without appropriate consideration to the legitimacy of the employer's interest in the rule.

- The standard promotes the notion that the absence of employer handbooks and policies is preferable to establishing clear guidelines for employee behavior, unless those guidelines "anticipate and carve out every possible overlap with NLRA coverage."
- The standard equates an ambiguous rule with an unlawful rule, thereby setting to employers the impossible task of removing all ambiguities from policies that "conceivably touch on some type of Section 7 activity."
- The standard provides the Board no discretion to distinguish "periphery" Section 7 activities from those "that are central to the Act."
- The standard fails to consider differences between particular industries, events, and work settings.
- The standard is impossible to apply consistently, resulting in employer/employee uncertainty and increased litigation.

Moving forward, the Board held, it will balance the employer's justification for the rule against the impact on NLRA rights, and assign employer rules to one of three "categories" of increasing severity. The goal of this approach will be to "provide far greater clarity and certainty to employees, employers, and unions regarding whether and to what extent different types of rules may lawfully be maintained."

The categories are as follows:

- **Category 1 (Lawful):** "[R]ules that the Board designates as lawful to maintain, either because (i) the rule, when reasonably interpreted, does not prohibit or interfere with the exercise of NLRA rights; or (ii) the potential adverse impact on protected rights is outweighed by justifications associated with the rule."

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## NLRB Reverses Course...

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The Board stated that this category would include no-camera rules and rules that require employees to “maintain basic standards of civility” or to foster “harmonious interactions,” and that past cases to the contrary were overruled. (See slip op. at 4, n. 15.) The Board cautioned, however, that the *application* of a “Category 1” rule may still violate the Act if the employer uses the rule to suppress NLRA-protected activity.

- **Category 2: “[R]ules that warrant individualized scrutiny** in each case as to whether the rule would prohibit or interfere with NLRA rights, and if so, whether any adverse impact on NLRA-protected conduct is outweighed by legitimate justifications.”
- **Category 3 (Unlawful): “[R]ules that the Board will designate as unlawful to maintain because they would prohibit or limit NLRA-protected conduct, and [because] the adverse impact on NLRA rights is not outweighed by justifications associated with the rule.”** A rule prohibiting employees from discussing wages or benefits with one another would fall under this category.

The Board also held that, in applying the new standard, it may (a) differentiate among “central” and “peripheral” NLRA rights; (b) distinguish “substantial [employer] justifications” from those of “peripheral importance”; (c) distinguish between different industries or work settings; and (d) take into account “particular events that may shed light” on the purpose of a rule or the impact on protected rights.

Applying the new framework to Boeing’s no-camera rule, the Board found that while the rule “may potentially affect the exercise of Section 7 rights,” the adverse impact was “comparatively slight” and outweighed by substantial justifications. Those justifications included Boeing’s need to comply with certain security protocols as a federal contractor; its federal duty to prevent the disclosure of

export-controlled equipment, software, technology; its interest in preventing disclosure of its proprietary information and of employees’ personally identifying information; and the risk that uncontrolled photography at its facilities could increase the risk of a terrorist attack.

Although the no-camera rule might prevent employees from *photographing* Section 7 activity on Boeing’s premises, the Board found, it would not prevent the employees from actually *engaging* in Section 7 activity, and Boeing’s substantial and important interests in maintaining the rule justified the minor limit on employee’s Section 7 rights.

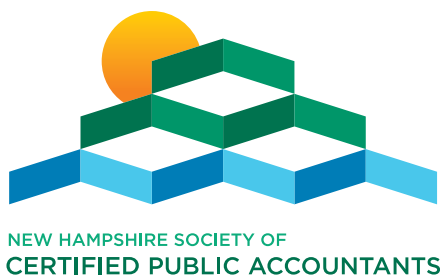
The dissent strongly criticized the majority’s decision, noting that the parties had not raised the issue of *Lutheran Heritage’s* continuing validity, nor had the Board invited interested *amici* to comment on whether it should overrule that decision. Member Mark Gaston Pearce called the decision a “how-to manual for employers intent on stifling protected concerted activity before it begins.” Member Lauren McFerran denounced the majority’s actions as agency rulemaking by a newly-constituted Board majority.

The Board’s decision applies retroactively to all pending cases. Chairman Miscimarra’s term expired December 16, 2017, leaving the Board temporarily split between Democrats and Republicans until another nominee is appointed and confirmed.

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Rachel Adams Ladeau is an attorney in the Litigation Department and Employment and Labor Practice Group at McLane Middleton, Professional Association. She can be reached at [rachel.ladeau@mcclane.com](mailto:rachel.ladeau@mcclane.com). (Editor’s Note: This article was originally published in the ABA Employment and Labor Relations Law Section newsletter, Winter 2018.)





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