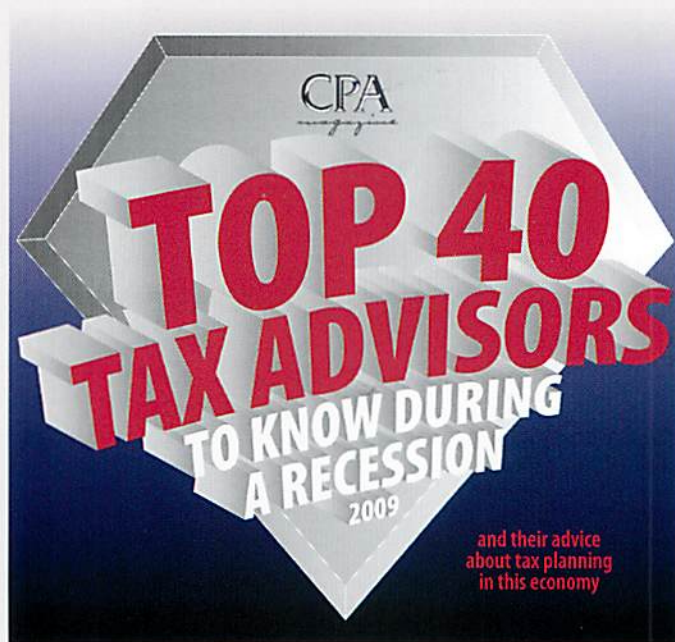


CPA *magazine*



By T. STEEL ROSE AND MYRNA NELSON

We have been identifying worthy elite in the accounting profession for the past six years. Selecting the Top 40 (rather than the usual 50) Tax Advisors to Know During a Recession brought out the most select group yet. Every state society and national association of CPAs and accountants was invited to nominate candidates.

And everyone selected had a bit of work to do. We asked each member of the Top 40 to pro-

vide 25 words of advice about tax planning during a recession.

Each year we profile a practitioner to represent the group. Marty Shenkman was an easy choice because of his prolific authorship and unselfish devotion to sharing his vast knowledge with other practitioners. A CPA, attorney, PFS and MBA, Shenkman has written 36 books and 750 articles on practical strategies for practicing accountants.

16 | APRIL/MAY 2009 www.cpamagazine.com

Martin M. Shenkman, P.C.

ATTORNEYS AT LAW

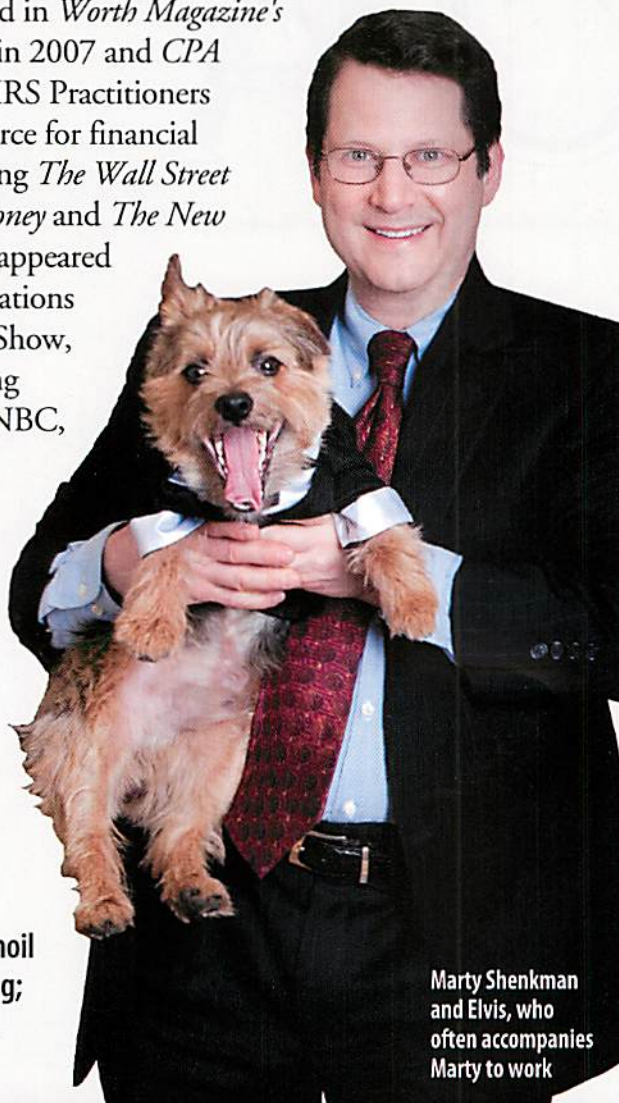
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MARTIN M. SHENKMAN, CPA, MBA, JD, is an attorney in Paramus, NJ, and New York City. His practice concentrates on estate planning and administration, tax planning, and corporate law. He was included in *Worth Magazine's* Top 100 Attorneys in 2007 and *CPA Magazine's* Top 50 IRS Practitioners in 2008. He is a source for financial publications including *The Wall Street Journal*, *Fortune*, *Money* and *The New York Times*. He has appeared on TV shows and stations such as The Today Show, CNN, NBC Evening News, CNBC, MSNBC, and CNN-FN. He has published 36 books and more than 700 articles. His most recent book is *Life Cycle Planning for the CPA Practice*.

ADVICE Help clients focus on steps they can take, instead of matters they can't control. Economic turmoil has changed everything; make no assumptions, plan creatively.



Marty Shenkman and Elvis, who often accompanies Marty to work

Tell us about how you got into the tax advocacy field. While working on my MBA at University of Michigan, I found the tax classes the most challenging and pursued tax as my major. I spent most of my research time in the Michigan law library, so I applied to law school and went at night while working in large CPA firms during the day. In my second year, a tax professor hired me to work in his firm, and I began defending IRS tax shelter audits. I've been doing it ever since. About 15 years ago, I was quoted in an article on estate planning for real estate owners, and the overwhelming response from that directed my tax work towards estate planning.

How would you advise other practitioners to consult clients during this recession? Be proactive. Help clients get past the deer-in-the-headlights syndrome and focus on affirmative steps they can take, rather than worrying about what they cannot control. Practitioners also need to be cognizant that almost every aspect of planning has changed, and often in surprising ways. I've prepared a 50-page report for practitioners on "Estate and Related Planning During Economic Turmoil," which we've offered to anyone who emails us at shenkman@shenkmanlaw.com and notes the word "Turmoil" in the subject line.

What is your advice about planning for second and later marriages? It is common to plan for second and later marriages—or even first marriages, in which both spouses are professionals concerned about lawsuits and liability exposure—by filing separately. Matrimonial attorneys frequently mandate this in prenuptial agreements. With the economy on the fritz, the incidence of claims and suits is likely to rise. Unfortunately, the impact of MFS status on this is usually ignored. A solution might be to mandate in the prenuptial or postnuptial agreement that MFS returns be prepared from separate data. Then the practitioner can choose whether or not to file an MFJ return prepared from the MFS returns. This build-up approach assures separate records in the event of divorce or lawsuit.

What should the IRS be doing? Lobbying Congress for sufficient funding so they can staff sufficiently and do their job appropriately, including cleaning up old regulation projects to provide needed guidance.

Have you experienced more audits from the IRS, and how do you approach them? We have traditionally seen a very high estate tax audit rate on returns without a surviving spouse. We seem to be seeing an uptick in gift tax audits. Our approach has always been to be cooperative and non-adversarial and to focus efforts on the technical issues at the heart of each matter.

What do you like best about consulting? The intellectual challenges, opportunities for creativity and camaraderie with colleagues.

Any comments on the IRS Whistleblower initiative? Although the concept of being an informant is disturbing, it appears to have identified a number of significant tax situations. If you do a Google search for "Whistleblower and IRS," you'll see that an industry of firms seeking to reap some of these rewards has grown. But it has always left me concerned that part of the problem remains the under-funding of the IRS. The IRS cannot provide the regulatory guidance practitioners and clients need and deserve without adequate funding.

How do you spend your time away from work? Huh? You mean when my wife hides my BlackBerry? I run, cross-country ski, read (stuff that has nothing to do with taxes), boat, etc.