

From the Albany Business Review:

<https://www.bizjournals.com/albany/news/2019/02/15/industry-roundtable-tax-and-accounting.html>

## Industry roundtable: tax and accounting

### Sponsored Content

Feb 15, 2019, 6:00am EST

Have there been unexpected changes of the federal tax reform? What are your clients' biggest concerns? What advice are you giving clients on the federal Opportunity Zones program? How is technology impacting your business? Law firm Hodgson Russ and the *Albany Business Review* hosted a discussion to answer these questions and more. Melissa Mangini, editor of the *Albany Business Review*, moderated the discussion.

**In the year since the federal tax overhaul, how have you been preparing your clients and yourselves for the tax season and the year ahead?**

**Thomas Gianatasio:** It's been about education, not only of clients and the industries that they are in, but for the most part, education of our staff.

**Lawrence Knapek:** There have been sweeping changes since 1986. You have reduction brackets. You have the lowest tax brackets, from 10 percent to 37 percent. You have reduced corporate tax rates. You have a deduction for pass-through entities.

It's been a year of planning, educating the clients and doing tax projections.



DONNA ABBOTT-VLAHOS

Standing, left, Lawrence Knapek, Kevin O'Leary, Ronald Guzior, Thomas Gianatasio. Seated, left, Michelle Plummer, John V. O'connor Jr, Dawn Doherty

**Kevin O’Leary:** The easy returns will be easier. The harder returns will be harder because of the new 199A rules.

**John V. O’Connor Jr:** Last year, a lot of clients didn’t want to talk about the 2017 return, just the 2018. We were certainly doing projection work for 2018 because that’s what they really wanted to focus on.

**Michelle Plummer:** It really started for us on day one. Reducing the tax rate from 35 percent to 21 percent has had a lot of benefits for us. We had to start off right away with pretty complex accounting and figuring out our deferred taxes. For reporting financial statement purposes, we had to immediately figure out that impact and make changes.

**Dawn Doherty:** What we were observing throughout the audit cycles quarter over quarter was a fine-tuning of the original estimates. It also made apparent the importance scheduling out, and taking account of projections in a way that I don’t think we have seen previously because we are dealing with changes impacting both 2017 and 2018. It made the projection process much more robust and much more important.

**Ronald Guzior:** Some of our clients are already reporting on the new tax laws, so we dealt with two sets of rules. Overall, clients were pretty happy with the results without the benefit of much planning.

### **What are your clients’ biggest concerns?**

**Knapek:** The uncertainty.

**Plummer:** For the bank, it’s great when you have an expense go down and are able to do more things like hire more people, which we were able to. But you’ll have the reverse impact if rates go back.

**Guzior:** A lack of permanency. A lot of this is going to end in 2026 unless it gets changed. That’s a big question mark.

**O’Connor:** There will be a big surprise with the withholding table changes. We are seeing that already. It’s the thousands and thousands of dollars that people were expecting to come back in certain refunds that they instead got back throughout

the year. We tried to give people a heads-up last year, but until you really go through the numbers, I think people are going to be in for a significant surprise.

### **Have you seen any unexpected changes over the year from the reform?**

**Plummer:** In the past, you had been able to deduct the meal when you send someone out of town for training. You can't deduct that anymore. Trying to break that out is going to be a challenge. Clients really need to understand what documentation to have.

**Knapek:** Investment fees and coordinating with brokers are no longer deductible, so different strategies are taking place.

### **How has the cap on state and local tax deductions affected your clients or organization?**

**Gianatasio:** Living in New York has had an impact in terms of the amount of state taxes and real estate taxes that we are able to deduct. It's going to impact every client, but to what extent depends on certain other factors.

**O'Leary:** A lot of people that thought they were going to get largely impacted by it won't be because of the affect the Alternative Minimum Tax (AMT) was having on their taxes anyway. The people I know it's going to impact have enough money to cover the situation. They are not happy about it, but ultimately they are people that can handle it.

**Plummer:** The second-home market is taking a slight downturn because people are still trying to figure it out. It's about educating them.

### **Gov. Cuomo made tweaks to the state tax code in response to the federal tax change. Are any of your clients taking advantage of the payroll tax?**

**Doherty:** We have not seen our clientele take advantage of it. From their perspective, it's more of an administrative burden and quite onerous. The cost benefit isn't there for the employer.

**Gianatasio:** There have been inquiries from our clients, and they haven't chosen to do it at this stage. They might revisit it next year.

**Knappek:** High-tax states like New Jersey and New York are coming out with these work-arounds to try to mitigate the SALT deduction. The IRS hasn't assessed that muster yet.

**Guzior:** We really won't know the results for years — until somebody tries it and gets audited and takes it to court.

### **Does the payroll tax have a future?**

**Knappek:** No.

**O'Leary:** The states are trying to play games. New York could simply lower the tax rate to 2 percent to take care of the State and Local Tax Deduction (SALT). It's as simple as that. They try to develop these political games and the IRS cuts right through.

### **Are clients taking advantage of the new charitable contributions model?**

**Doherty:** Our clients view it as risky. They have asked about it but are not willing to actually get into those charitable funds that the state has set up.

**Guzior:** We had one client do it as a test. He was in the position to put some money in. We will see what happens.

**Doherty:** The IRS has already taken a preliminary position relative to these types of schemes. This isn't the first time in history that this has been done, so I think most are leery of stepping into that.

### **What do your clients need to know about the federal government's new Opportunity Zones?**

**Knappek:** The Opportunity Zone has to be nominated and designated by the state and approved by the feds, IRS and U.S. Treasury. We have one client who asked about it. It's designed to spur economic development and create jobs in various communities. There are definitely tax benefits if you are patient with it.

**O'Leary:** We are staying away from them for the time being. The part people are forgetting is there is a real estate transaction component to this. There is some data out there indicating that 50 percent of the investment properties were acquired because people knew people were going to be looking for the investments. If I went

in there and tried to do this right now, I'm buying at a premium to hold for 10 years in hopes that this gets grandfathered in in the next election or turns over at some point. To wait 10 years and then maybe have a substantial loss on the real estate piece of this in order to maybe defer some gain is too much. It's a great idea, but there are some holes. Every time I hear the word "zone," it's like [sirens] — laws are coming to kill this.

**Doherty:** We are seeing a lot of interest among clients that are real estate developers. We are also seeing some of the financial institutions creating funds, or portfolios of the holdings. Pooling the funds allows you to make a larger impact in a blighted area much more readily with a larger infusion of capital into a zone.

By my count, there were over 2,000 that were considered low-income communities within the state. Some of them are in contiguous areas, so there are definite pockets in the state where there can be significant impact and improvements. It's really two-fold for investors: getting tax benefits and the benefit of increasing the economic pluses that are here in New York.

### **What steps or advice are you offering clients or customers on how to insulate themselves from the next recession, whenever that may be?**

**Guzior:** Most immediately, interest rates are rising. We have come through a 10-year period where we have borrowed a lot at low interest. Those folks that may have extended themselves more than they needed to, might start seeing the impact. But entrepreneurs are entrepreneurs and sometimes they go until they hit a wall. Sometimes it's too late, and sometimes it's just in time. Most of our clients are just doing what they do and trying to do it effectively and efficiently. When things come up, they will deal with it. Right now, interest is the only real sign of anything going against what has been happening the last 10 years.

**Doherty:** For our clientele in the middle market, our advisory practice has been very busy working through stress testing "what if" scenarios to see where can we make changes or identify the impact if we were to experience a rate increase or a decline in our revenues. It's a means of being informed and trying to make good decisions now to impact the "when this happens" scenarios.

**Gianatasio:** We have been through the cycle enough to know it's eventually going to happen. The discussions with our clients are really around how they are

positioning themselves. Every downturn has a different effect on every business. In the past, the Capital Region hasn't seen the highest highs or the lowest lows, so it comes down to knowing your business.

**Plummer:** We are starting to be a little more conservative with our underwriting. We are starting to see some signs and some worries out there. We are making sure that our reserves are set up against the loans for loss. The consumer is starting to get a little bit overextended again, and we are starting to get a little more conservative with our underwriting on that type of product.

**O'Leary:** 2008 and 2009 taught people a lot. A lot of my business clients had to figure out how to pare back to bare bones and start adding as things got better in the market after the recession. My clients are educated enough to understand the rate risk.

### **Do you expect the Federal Reserve to raise rates again this year?**

**Plummer:** I think they will. They are trying to get a more normalized rate environment so that if something happens, they have room to whittle. The global economy is making it significantly harder for them to move at the pace they would like, so it may be slower than they were thinking.

**Knapek:** I think they are going to raise rates, maybe one or two times, but be a little more patient with it in 2019.

### **How often are your clients asking about socially responsible investing?**

**Guzior:** If it's part of their nature, they do. Certainly our wealth management arm has seen some of that. It's certainly higher on the radar than it used to be, but it's not generally in the investing of their whole portfolio.

**Gianatasio:** It really depends on their investment strategy. A lot of people are only concerned about the returns and want the highest return so that's not factored in. We definitely get more questions from tax-exempt organizations and people with endowments about whether this should be part of the policy.

### **How are you preparing clients for generational shifts in wealth?**

**Knapek:** With the exemption level at \$11 million a person, a lot of people are not planning, unfortunately. We expect that number is going to come back down at some point with inflation. I'm guessing it will be in the \$6.2 million range. New York is still at the old level of about \$5.5 million, and I think a lot of people are pushing it off when they shouldn't be.

**O'Connor:** Our role is to have the conversation with people if they are not thinking about it, don't want to deal with it, aren't ready or don't think they are ready. Our role has to be advisory, to be the bad guy, to say hey, what are we doing here long-term? Get them to think about what they want to do and if they want to go generational or a different direction. We have to drive that. It's our responsibility to at least have the conversation and get the clients thinking about it.

**Doherty:** It's been an integrated approach between business succession and personal succession. While everyone is respectful of the new changes, it's realizing that after 2026, a lot of our tax laws that are very favorable will unwind. They are taking a longer view approach to both business and personal wealth transfer.

### **How has technology, like AI, impacted the financial profession and business in general?**

**Guzior:** A lot. AI is a risk to certain parts of our industry. The audit practice is certainly at risk. And we are trying not to be what taxicabs are. It was a surprise to them when Uber showed up. Uber had been around for a while before that, but they didn't realize it. It's the same for us. On the other side, there is the opportunity to embrace it and make it part of how we do things so we operate more effectively.

**Doherty:** It's been a real plus to have a very robust practice around artificial intelligence and developing some technology tools that help a lot with our clients analyzing what they are experiencing now and help them make better business decisions.

**O'Connor:** It's certainly another tool. We have clients using AI in their own businesses. It's a tool to use for analytics. But at the end of the day, a human still has to analyze that data, no matter how it is brought to us. But it's making it more efficient for presentations, dashboards and so on for the client.

## **What you are looking for when you recruit, and have you had success finding talent in the market?**

**Guzior:** Locally, if people leave a firm like ours, it's generally for one of two reasons. Either they are relocating or going into private accounting. We get people because they have relocated. It's really grow your own. We actively work with the schools to do that through recruiting programs we have.

We do a lot with interns to train them. We are looking for a well-rounded person because we are in a people business, no matter what the technology is.

**Doherty:** If you recruit from different disciplines, you really do get the best result. The face of our professionals in the future would be a combination of traditional accounting, the ability to use data analytics and being that good adviser that accountants are expected to be in the marketplace.

A few of our professionals are involved in college advisory boards to assist accounting programs in developing the courses that accounting professionals will take in the future.

**Gianatasio:** We are trying to address some challenges in the public accounting industry like the seasonality of the workload, compression and work/life balance with different benefits, time-off policies and various things that can make our culture and our firm more favorable for the individual working with us.

## **Is there more of an emphasis on creating that culture with the millennial generation?**

**Doherty:** Our firm went through what we call a culture journey in the last five years to change how we are interacting with one another and our clients, and how we can bring our whole selves to work in a collaborative manner while still bringing the excellence and enjoying what we are doing. We want it to be an engaging environment where people love what they do.

**Plummer:** You really have to work with them. They have to feel really involved. Millennials want to feel important and have a say and know that they are being invested in. You also have to have compensation packages for longevity to give them a reason to stay.



**O'Connor:** The industry itself really has to market itself. A lot of accounting graduates coming out think they will do better on Wall Street or with a bigger firm. The firms in this room all need good personnel. This job is so critical to all business owners, governments and not-for-profits. They all need outside accountants and we have to be able to offer those packages.

**O'Leary:** There used to be this kind of negative outlook on people that want to work part-time. If you are talented and I can trust you with my client base, we will make it work.

We invest so much in our internship program. It's a great way for them to see us and us to see them. I was an intern in 1998 and never left. We have a lot of stories like that in the firm.

The other avenue for recruiting is M&A. We are always looking for firms that we can bring in. But it goes back to culture. If the culture doesn't work, the ramifications that come from that are insurmountable. The employee side of the practice takes up so much of our time. We used to do evaluations once a year, now it's twice. When people leave, it hurts because of that commitment we have made.

### **Are the taxes in New York state really that much higher than everywhere else?**

**Guzior:** Yes. The percentage of state taxes as a percentage of adjusted gross income is by far the highest of anybody. It's not just talk. It's real.

**Knapek:** Eighty-six cents of every dollar to the feds comes back to the state. That translates to about \$35 billion leaving the state of New York. No question New York has high taxes. Think about income tax at 8.8 percent, gas tax, utility tax. We are highly taxed. But also, we probably get a better return from the feds.

### **Does upstate New York's relatively low cost of living balance out the high taxes?**

**O'Leary:** There is a part of me that's a little happy about the tax rate. I have a lot of family in Florida. You have a special needs kid in Florida, and you are not getting anywhere near the services you are in New York state. When you look at the rehabs and addictions and just physical ailments, there is a part of me that thinks that if I had a child in a situation — and we all have clients that do — I love that I'm in New York because of that. We lead the nation with respect to the services we give to the kids.

On the flip side, a gallon of gas in Florida is \$1.90. I know the gas that comes out of the tank up here is the exact same stuff that comes out down there. This is the part of me from the consumer's perspective that's disappointed.

**Are there any new tools or paths available for companies to reduce taxes when they buy equipment, construct buildings or hire more employees?**

**Doherty:** Bonus expensing is a real plus and certainly an incentive for businesses to buy equipment. But it's kind of a double-edge sword because you need to think about the entirety of the changes that were made with tax reform. As much as the bonus depreciation is there for manufacturers, they might, for instance, get bitten by the 163J rule. This is the interest limitation deduction that includes depreciation in cost of goods sold so it's not an add back in the interest limitation calculation. And so, where you get a benefit on one side, you have to be leery and look through the entire calculation and how far it impacts the interest deduction. A lot of our clients take advantage of R&D credits as well.

**Knapek:** Bonus depreciation, Section 179, a million dollars. You can do a segregation study trying to accelerate some of the investments in real property.

**Plummer:** We have done the cost segregation studies to make sure we take the bonus. And we use 179 deductions as part of our tools to help reduce some of that. We've also set up some efficiencies with captive insurance subsidiaries, some additional insurance and some other efficiencies built into that. That's something to take advantage of.

**Guzior:** One of the major changes doesn't have to do with depreciation. The definition of small business used to be that if you average \$10 million or more in revenue over a period of time, you couldn't be on the cash method of accounting. They raised the limit to \$25 million, which opened the door for a number of clients to look at changing their method of accounting. And similarly, depreciation is just a deferral expense or an acceleration of an expense. We have had a lot of clients look at that and some have changed back. In particular, contractors have gone to a cash method.

**O'Connor:** With depreciation, it's about planning. This year, too, the qualified business deduction is a free deduction. You have to balance all of that. A lot more business clients rush to take the depreciation all in one year, and it's not necessarily

the best plan. Sometimes spreading it out tax-wise might be more beneficial. It depends on the tax and circumstances. You have to look at that and how it will affect you going forward.

The new qualified business deduction is complicated. We will certainly mention it in our annual tax-planning letter at the end of the year. It's complex. We are waiting because it's still in a proposed regulation situation. So, we are kind of making it up as we go here with regard to who will qualify and what businesses are going to qualify. There are a host of issues with this new deduction and not a lot of guidance per se out there yet.

**O'Leary:** When I think of hiring, I think about nexus at the state level where you have state filing requirements. The fed is easy; it's the states that really take a lot of time because every state's rules are different.

There was a major Supreme Court case in South Dakota back in September that I think will change everything that relates to nexus. They use the term "cookie nexus" and "click-through nexus." Software is still a new topic to the IRS, this is how far behind they are in certain areas.

As it relates to this, I'm asking a lot of my clients where they are doing business. It doesn't mean you have bricks and mortar and employees in that state. It's looking into the economic nexus of where your sales are and how many touches are in a state. This is going to be an enormous piece of legislation. California basically mirrored South Dakota's ruling. Once California bites, you have a major player involved. We are really going to keep our eyes on this over time.

**Doherty:** We have seen an increase in analyses under the recent Wayfair decision. Most of our clients are looking at it very seriously, particularly in the context of their financial statements, to ensure they have properly taken account of the potential for that ruling across their whole business. It definitely has added to the analyses that we do day in and day out.

**O'Leary:** It's important people realize that when the initial press came out on this, it focused on what you did. The first question asked your income. If you are below certain thresholds, it doesn't matter what you do. From that standpoint, if everybody made under \$300,000 jointly, it would be the easiest thing to deal with. The difficulty arises once you get into that next bucket — that definition of whether

you're a service business or not. Being it's so new, you don't have court cases, legislation and private letter rulings. So, we are going off the cuff a little bit. When the audits come down the road in three or four years, I will say to the auditors: You dragged your feet. We did our best. This is what was out there at the time. Can you meet us in the middle? This is all we had.

I think this pushed a lot of people on the edge of retirement out of the accounting practice.

**Guzior:** This relates to a service business. It's not engineering or an architect where you might be regulated by the Education Department or the professional standards of your state. It's complex.

### **What keeps you up at night?**

**Guzior:** People. They are the lifeblood of our business. We've got to take care of them. We want to reward them. We want to challenge them. We need to serve our clients, who are also people. To me, it's always people.

**Plummer:** The pace of change and trying to keep up with it. And trying to make sure that everyone is happy and working like a team.

**O'Connor:** There are a lot of things people will be surprised about in this tax law. I want to make sure I'm covering our clients and have explained things to them and educated them.