

# *The Current* **Central Arizona Chapter**

February 2011

**2011  
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## **A Message from the President** *Chuck Schoch, Jr., Pool Corp.*

Dear Members and Friends of APSP, I would like to introduce myself to you. My name is Charles Schoch, (I go by Chuck most of the time) I am no stranger to APSP; I have been involved with this group for a number of years. I have seen a lot of changes in our association. APSP has been striving to keep our profession strong with training, leadership, and helping write the laws that will keep us and our customer's safe in the swimming pool business. As your president of the Central Arizona Chapter, I look forward to working to get our name out there, among the consumers. I believe if we get the APSP logo out there and get people to understand what we do, we can promote new

members to join APSP, because they will know the value of the association. I want to let our professionals know we have training, so that have the standards of our business. One thing that I will promise you is I will work hard to get APSP recognized as an association with care, trust, and experience of its members. I love this business; it has treated me well in all the years that I have been in it. I love to give back. One thing that I enjoy the most is working with professional like yourselves that understand what it means to be a Pool and Spa Professional. Let's have a great year together.

*Chuck*

**Join APSP by March 31, 2011  
and receive \$100 off your Dues!\***

\* \$50 off for single-pole memberships

*Offer applies to new members only and not renewals.*

*Call Susan at APSP at 602.631.4083 for details.*



## **And Now A Word From Your Executive Director** *Susan Stein Kregar*

Wow! It's been just over a year since I have joined APSP. And what a year it was!!! Last year we cranked up the excite-o-meter and added bi-monthly dinner meetings, mixers and special events. We continue to grow our Central Arizona membership and have begun the process of re-chartering the Southern Arizona Chapter. Our friends in Tucson have had a few mixers and roundtables and are in a good position to have a terrific 2011. I am so excited that we have finally brought certification programs to Arizona. (See pages 6 & 7 for details.) If you are not a member, take advantage of the membership promotion noted above. It's a great deal and Arizona has a lot to offer on the local level. Here's to a fantastic 2011! — *Susan*

**What's Inside**

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**Do you Know the Rules?**

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## IRS 1099 Status — What Employers & Employees Need to Know

*Editor's Note: Due to the economy, a lot of contractors have opted to change their workers' status from employees to independent contractors (1099). There are a number guidelines that must be followed. The following information is directly from the IRS.*

Facts that provide evidence of the degree of control and independence fall into three categories:

**Behavioral:** Does the company control or have the right to control what the worker does and how the worker does his or her job?

**Financial:** Are the business aspects of the worker's job controlled by the payer? (these include things like how worker is paid, whether expenses are reimbursed, who provides tools/supplies, etc.)

**Type of Relationship:** Are there written contracts or employee type benefits (i.e. pension plan, insurance, vacation pay, etc.)? Will the relationship continue and is the work performed a key aspect of the business?

Businesses must weigh all these factors when determining whether a worker is an employee or independent contractor. Some factors may indicate that the worker is an employee, while other factors indicate that the worker is an independent contractor. There is no "magic" or set number of factors that "makes" the worker an employee or an independent contractor, and no one factor stands alone in making this determination. Also, factors which are relevant in one situation may not be relevant in another.

The keys are to look at the entire relationship, consider the degree or extent of the right to direct and control, and finally, to document each of the factors used in coming up with the determination.

### Behavioral

Behavioral control refers to facts that

show whether there is a right to direct or control how the worker does the work. A worker is an employee when the business has the right to direct and control the worker. The business does not have to actually direct or control the way the work is done – as long as the employer has the right to direct and control the work. The behavioral control factors fall into the categories of:

- Type of instructions given
- Degree of instruction
- Evaluation systems
- Training

### TYPES OF INSTRUCTIONS GIVEN

An employee is generally subject to the business's instructions about when, where, and how to work. All of the following are examples of types of instructions about how to do work.

- When and where to do the work.
- What tools or equipment to use.
- What workers to hire or to assist with the work.
- Where to purchase supplies and services.
- What work must be performed by a specified individual.

What order or sequence to follow when performing the work.

### DEGREE OF INSTRUCTION

Degree of Instruction means that the more detailed the instructions, the more control the business exercises over the worker. More detailed instructions indicate that the worker is an employee. Less detailed instructions reflects less control, indicating that the worker is more likely an independent contractor.

**Note:** The amount of instruction needed varies among different jobs. Even if no instructions are given, sufficient behavioral control may exist if the employer has the right to control how the work results are achieved. A business may lack the knowledge to

instruct some highly specialized professionals; in other cases, the task may require little or no instruction. The key consideration is whether the business has retained the right to control the details of a worker's performance or instead has given up that right.

### EVALUATION SYSTEM

If an evaluation system measures the details of how the work is performed, then these factors would point to an employee.

If the evaluation system measures just the end result, then this can point to either an independent contractor or an employee.

### TRAINING

If the business provides the worker with training on how to do the job, this indicates that the business wants the job done in a particular way. This is strong evidence that the worker is an employee. Periodic or on-going training about procedures and methods is even stronger evidence of an employer-employee relationship. However, independent contractors ordinarily use their own methods.

### Financial

Financial control refers to facts that show whether or not the business has the right to control the economic aspects of the worker's job.

The financial control factors fall into the categories of:

- Significant investment
- Unreimbursed expenses
- Opportunity for profit or loss
- Services available to the market
- Method of payment

### SIGNIFICANT INVESTMENT

An independent contractor often has a significant investment in the equipment he or she uses in working for someone else. However, in many occupations, such as construction, workers spend thousands of dollars on the tools and

*IRS 1099 continued on page 3*

*IRS 1099 continued from page 2*

equipment they use and are still considered to be employees. There are no precise dollar limits that must be met in order to have a significant investment. Furthermore, a significant investment is not necessary for independent contractor status as some types of work simply do not require large expenditures.

#### **UNREIMBURSED EXPENSES**

Independent contractors are more likely to have unreimbursed expenses than are employees. Fixed ongoing costs that are incurred regardless of whether work is currently being performed are especially important. However, employees may also incur unreimbursed expenses in connection with the services that they perform for their business.

#### **OPPORTUNITY FOR PROFIT OR LOSS**

The opportunity to make a profit or loss is another important factor. If a worker has a significant investment in the tools and equipment used and if the worker has unreimbursed expenses, the worker has a greater opportunity to lose money (i.e., their expenses will exceed their income from the work). Having the possibility of incurring a loss indicates that the worker is an independent contractor.

#### **SERVICES AVAILABLE TO THE MARKET**

An independent contractor is generally free to seek out business opportunities. Independent contractors often advertise, maintain a visible business location, and are available to work in the relevant market.

#### **METHOD OF PAYMENT**

An employee is generally guaranteed a regular wage amount for an hourly, weekly, or other period of time. This usually indicates that a worker is an employee, even when the wage or salary is supplemented by a commission. An independent contractor is usually paid by a flat fee for the job. However,

it is common in some professions, such as law, to pay independent contractors hourly.

#### **Type of relationship**

Type of relationship refers to facts that show how the worker and business perceive their relationship to each other. The factors, for the type of relationship between two parties, generally fall into the categories of:

- Written contracts
- Employee benefits
- Permanency of the relationship
- Services provided as key activity of the business

#### **WRITTEN CONTRACTS**

Although a contract may state that the worker is an employee or an independent contractor, this is not sufficient to determine the worker's status. The IRS is not required to follow a contract stating that the worker is an independent contractor, responsible for paying his or her own self employment tax. How the parties work together determines whether the worker is an employee or an independent contractor.

#### **EMPLOYEE BENEFITS**

Employee benefits include things like insurance, pension plans, paid vacation, sick days, and disability insurance. Businesses generally do not grant these benefits to independent contractors. However, the lack of these types of benefits does not necessarily mean the worker is an independent contractor.

#### **PERMANENCY OF THE RELATIONSHIP**

If you hire a worker with the expectation that the relationship will continue indefinitely, rather than for a specific project or period, this is generally considered evidence that the intent was to create an employer-employee relationship.

#### **SERVICES PROVIDED AS KEY ACTIVITY OF THE BUSINESS**

If a worker provides services that are a

key aspect of the business, it is more likely that the business will have the right to direct and control his or her activities. For example, if a law firm hires an attorney, it is likely that it will present the attorney's work as its own and would have the right to control or direct that work. This would indicate an employer-employee relationship.

#### **Misclassification of Employees**

#### **CONSEQUENCES OF TREATING AN EMPLOYEE AS AN INDEPENDENT CONTRACTOR**

If you classify an employee as an independent contractor and you have no reasonable basis for doing so, you may be held liable for employment taxes for that worker (the relief provisions, discussed below, will not apply). See Internal Revenue Code section 3509 for more information.

#### **RELIEF PROVISIONS**

If you have a reasonable basis for not treating a worker as an employee, you may be relieved from having to pay employment taxes for that worker. To get this relief, you must file all required federal information returns on a basis consistent with your treatment of the worker. You (or your predecessor) must not have treated any worker holding a substantially similar position as an employee for any periods beginning after 1977. See [Publication 1976, Section 530 Employment Tax Relief Requirements](#) (PDF) for more information.

#### **MISCLASSIFIED WORKERS CAN FILE SOCIAL SECURITY TAX FORM**

Workers who believe they have been improperly classified as independent contractors by an employer can use Form 8919, Uncollected Social Security and Medicare Tax on Wages to figure and report the employee's share of uncollected Social Security and Medicare taxes due on their compensation. See the full article [Misclassified Workers to File New Social Security Tax Form](#) for more information.

# January 6, 2011 Multi-Industry Mixer



**SAVE THE DATE**

**Tuesday April 26, 2011**

**Joint Dinner Meeting with  
Arizona Concrete Contractors Association  
Topic: ADA Requirements**

Join APSP as Fidelis Garcia, Attorney at Law and former director of the Arizona Registrar of Contractors provides insight in responding to complaints you receive as well and the proper protocol for filing a complaint.

Fidelis Garcia is a former member of Governor Napolitano's Cabinet, and has served as the Director of the Arizona Registrar of Contractors. In addition, he was the presiding judge for the Guadalupe Municipal Court, a judicial officer for the Phoenix Municipal court and a juvenile hearing officer for the Maricopa County Superior Court. Garcia is a member of both the State Bar of Arizona and the Los Abogados Hispanic Bar Association, and is an Arizona native with roots dating back to 1918. Garcia received his B.A. in political science from Arizona State University in 1993. He then went on to earn his *juris doctor* from The Arizona State University Sandra Day O'Connor College of Law in 1999.

## MEMBERSHIP DINNER

### ROC Updates Responding To & Filing Complaints

**Tuesday, February 22, 2011**

Casino Arizona 101 & McKellips

*Park near valet parking.*

*Enter through east entrance towards the restaurant.*

***Banquet Room is in the Eagle Buffet Restaurant.***

**6:00 p.m. Registration Opens**

**6:00 p.m. Dinner & Networking**

*(enjoy a fantastic all you can eat buffet)*

**7:00 p.m. Program Begins**

### 2 Vendor Sponsorships Available For \$75.00 support the association that supports you!

Includes:

- Table top display table.
- Your company's logo on promotional materials.
- Ten minutes during the meeting to showcase your products and services.

*Tables are available to current, paid APSP members only.*

*Please set up by 6:00 p.m.*

*This form and payment must be received prior to the meeting to reserve your sponsorship.*

**Please call 602.631.4083 to reserve your sponsorship.**



All work and  
no play?  
**NO WAY!!**

Stick around  
after dinner

and play the slots, get in  
on a card game or relax in  
the bar.

### Registration

**APSP Members: \$25 per person**

**Non-members: \$30 per person**

**PAYMENT IS DUE IN ADVANCE OF THE PROGRAM**

Company: \_\_\_\_\_ Phone: \_\_\_\_\_

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Name: \_\_\_\_\_ Name: \_\_\_\_\_

**Please Circle One:** *Visa MasterCard*

Name on card \_\_\_\_\_ Card Number \_\_\_\_\_

Exp \_\_\_\_\_ 3 or 4 digits on back of card \_\_\_\_\_

Address statement is mailed to \_\_\_\_\_ Signature \_\_\_\_\_

**Please fax registration form to 602.631.9084 or email [skregar@apsp.org](mailto:skregar@apsp.org) by Friday, February 18, 2011.**

Mail checks to: APSP, P.O. Box 42237, Phoenix, AZ 85080

**Questions? Call 602.631.4083**

No-shows and cancellations with 48 hours of program will be billed.



# Jump Start Your Career!

## Register NOW for the Central Arizona Chapter Tech School for Education, Training and Certification Testing as a Pool Maintenance Specialist.

**Location: Superior Pool Products, Mesa, AZ**

**Date: February 24, 25, 26, 2011**



Formerly the Tech I program, successful completion of the new Maintenance Specialist program now leads to the **CMS Certified Maintenance Specialist** designation. This program is intended for entry-level pool and spa industry employees, as well as those who have experience cleaning pools and balancing chemicals. There are no pre-requisites for this program.

**The program runs 2-1/2 days and covers:**

- Pool systems and circulation
- General pool maintenance
- Water balancing and disinfection
- Safety considerations
- Customer service

Additional topics included in the curriculum include Pool and Spa Structures, Controls, Electrical Safety, and Auxiliary Equipment.

**Program Fee:**

\$ 395 for APSP members, \$595 for non-APSP members

**Your program fee includes:**

- The new *Service Tech Manual, 4<sup>th</sup> Edition* – in full color, with new content, graphics and educational aides – shipped directly to you when you register
- Companion CMS workbook and a CMS Study Guide
- Expert instruction from an experienced industry professional
- Open-book, multiple choice exam for certification at the conclusion of the course
- Wall certificate, wallet certificate, uniform patch with logo, and three years of certification, after passing the exam
- Lunch and refreshment breaks during the course

**Questions? Contact Susan Kregar at 602.631.4083 or [skregar@apsp.org](mailto:skregar@apsp.org) for more information.**

**Register NOW. To receive more information or a registration form, call 602.631.4083 or fax this flyer to 602.631.9084 or email [skregar@apsp.org](mailto:skregar@apsp.org)**

Name \_\_\_\_\_ Date \_\_\_\_\_

Company \_\_\_\_\_ Email \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_



**POOL/SPA TECHNICAL TRAINING COURSE  
CMS CERTIFIED MAINTENANCE SPECIALIST**

**REGISTRATION FORM**

**APSP CMS COURSE  
SUPERIOR POOL PRODUCTS, Mesa  
FEBRUARY 24, 25, 26, 2011**

**Who Should Register for this Course?**

The CMS Certified Maintenance Specialist course was designed as an education program for new and seasonal employees, as well as individuals currently working a residential pool maintenance route who want a professional designation to enhance their business opportunities.



**What Does the Course Cover?**

The course textbook is the APSP *Service Tech Manual, 4<sup>th</sup> Edition*, and each of the 10 units will be covered during the course, with an emphasis on four key areas: Water Balancing, Circulation and Filtration, Routine Maintenance, and Safety. The purpose is to prepare the student to provide the routine maintenance residential pools and spas require.

**What Does the Course Fee Include?**

The fee includes a copy of the new, 500-page APSP *Service Tech Manual, 4<sup>th</sup> Edition*, the *CMS Workbook*, CMS Study Guide, 2.5 days of instruction from an industry expert, the exam fee, and 3 years of certification upon passing the exam.

| <b>COURSE SCHEDULE</b>               | <b>COURSE FEE</b>                   | <b>COURSE ALSO INCLUDES</b>                          |
|--------------------------------------|-------------------------------------|--|
| Thurs. Feb. 24 8:00 a.m. – 5:00 p.m. | APSP Members - \$395                | Continental Breakfast and Breaks<br>Thurs. Fri. Sat. |
| Fri. Feb. 25 8:00 a.m. – 5:00 p.m.   | Non-Members - \$595                 | Lunch Thurs & Fri                                    |
| Sat. Feb. 26 8:00 a.m. – 1:00 p.m.   | (includes APSP Service Tech Manual) |  |

**REGISTER TODAY AND GIVE YOUR COMPANY A COMPETITIVE EDGE!**

Company: \_\_\_\_\_ APSP Member?  Yes  No  
 Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
 City: \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Fax: \_\_\_\_\_  
 Contact person for this registration: \_\_\_\_\_ Email: \_\_\_\_\_

**PLEASE REGISTER THESE INDIVIDUALS FOR THE CMS COURSE (add a page if needed)**

| <b>First Name</b> | <b>Last Name</b> | <b>Fee</b>                          | <b>Amount of fee</b> |
|-------------------|------------------|-------------------------------------|----------------------|
|                   |                  | APSP Member \$395. Non-member \$595 |                      |
|                   |                  | APSP Member \$395. Non-member \$595 |                      |
|                   |                  | APSP Member \$395. Non-member \$595 |                      |
|                   |                  | APSP Member \$395. Non-member \$595 |                      |
| <b>TOTAL DUE</b>  |                  |                                     |                      |

**PAYMENT – FULL PAYMENT MUST ACCOMPANY REGISTRATION**

Enclosed is a check made out to APSP for the total fees.  
 Please charge my:  Visa  MC for the total fees of \$\_\_\_\_\_  
 Credit card number \_\_\_\_\_ Expiration Date \_\_\_\_\_ CVV# \_\_\_\_\_  
 Cardholder name \_\_\_\_\_ Cardholder signature \_\_\_\_\_  
 Address statement is mailed to \_\_\_\_\_

**Fax** registration form to APSP: 602.631.9084 OR **Email** registration form to APSP: [skregar@apsp.org](mailto:skregar@apsp.org) OR **Mail** the registration form to: APSP P.O. Box 42237, Phoenix, AZ 85080 Phone is 602.631.4083.

For more information about the course visit <http://www.apsp.org/Public/CareerInstitute/ServicePrograms/index.cfm>.  
 To contact the program coordinator, call **Susan Kregar** at **602.631.4083** or [skregar@apsp.org](mailto:skregar@apsp.org).