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Advance planning for continuation of a practice; Management of an accounting practice bulletin, MAP 17

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MANAGEMENT OF AN ACCOUNTING PRACTICE

Advance Planning for Continuation of a Practice

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This bulletin is a publication of the staff of the American Institute of Certified Public Accountants and is not to be regarded as an official pronouncement of the Institute. It was prepared by Robert N. Sempier, CPA, manager, management of an accounting practice. The members of the committees on continuance or acquisition of a practice, and management of an accounting practice assisted in an advisory capacity.

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Introduction

A CPA NEVER REACHES the point where all of his work has been completed. Most of his work is recurring and much of it is continuous. Suppose a practitioner is suddenly removed from his practice by death, illness, or some other cause. Suppose he has not made arrangements for the continuance of his practice. In such event, you may picture a case of suspended animation. His practice comes to a standstill. There is work in process, work to be started, reports to be written, work completed but not billed, plans in the process of being formulated, and work to be carried on through the coming months. Where does the client stand now? In case of temporary disability, he may await the practitioner's recovery. In the event of his death or long-term disability, he will have to seek professional service elsewhere.

It has been the custom for clients of CPAs to call upon them frequently for advice and guidance in problems affecting matters of policy within their management. These may concern their financing, accounting, tax problems, and, in fact, almost every problem concerning their business. Many follow the regular practice of consulting their CPA for preplanning year-end transactions and other proposed transactions. There is constant call upon his services in many matters, some of which may appear routine or minor from the CPA's point of view, but to the client are not only important but urgent. An interruption in the continuity of this service would be disturbing to the clients.

The CPA practitioner has a responsibility to provide, through advance planning, for uninterrupted service to his clients and to assist in guiding them to the services of competent successors.

Many practitioners will probably be faced with a prolonged illness. Every practitioner will die. In view of the fact that we cannot predict when an emergency will occur, it is incumbent upon every practitioner to give serious thought to what he would do to provide for the welfare of his family, and his clients in the event of sudden death or prolonged illness.

The purpose of this bulletin is to provide the practitioner with information regarding the steps he may take to provide for the continuance or acquisition of such an accounting practice by another, prior to the time that an emergency develops.

CHOOSING AN APPROACH

SEVERAL AVENUES ARE OPEN for the practitioner who desires to insure the continuation of his practice upon his disability, retirement or death. Since the basic purpose of such continuation is for the practitioner to serve his clients and, at the same time, to preserve the greatest economic benefit from his practice, he must consider the different ways this may be accomplished.

The practitioner, having concluded that he desires to perfect plans for the continuation of his practice upon disability, death or retirement, should first determine which method he desires to follow, i.e.:

1. Merging the practice into a practice that will insure continuation.[1]
2. Surrounding himself with younger CPAs as partners.
3. Entering into an agreement with other practitioners or his staff to continue the practice if he cannot do so, or if he retires from active management.
4. Emergency professional assistance plan.[2]

[1] The following references will provide additional data with respect to mergers. "Buying a Practice," Chapter 29, of Robert Sproull's *Accountants Fee and Profits*, London 1951. "Mergers of Accounting Practices" by John Wiseman in the Fall 1957 issue of the *Virginia Accountant*. *Accounting Practice Management Handbook*, pages 360-69, edited by James H. MacNeill, AICPA, 1962.

[2] Appendix B, page 65.

Agreement with other practitioners

A PRACTITIONER in his consideration of a plan for the continuation of a practice finds several major steps necessary. These are:

A. *Selection of a successor.* The CPA who engages in advance planning should be sure he realizes all of his responsibilities to his clients, his profession and his family. He must be reasonably certain that his successor will discharge these obligations and responsibilities as he himself would do. Accordingly, his successor must be technically competent, well regarded in the profession and disposed to discharging responsibility conscientiously. Since a successor usually is to take over at some undetermined future date, one should search for a successor whose age is such as to automatically extend the duration of the practice.

One of the best sources for a successor is usually the practitioner's own employees, if he has a staff. However, excellent sources for successors are CPA acquaintances operating comparable practices. Serving on committees at state society or chapter levels serves to broaden such acquaintances, as does participation in AICPA activities.

B. *Preparation for negotiations.* In order to expedite negotiations with a potential successor, it will prove helpful if the following information is prepared:

1. A statement as to type of practice (specialties, types of clients etc.).
2. A statement briefly setting forth the fees structure (such as hourly rates, fixed fee engagements, contingent fee arrangements, retainers, etc.).
3. Valuation, generally, of the practice with an explanation of how such valuation was determined.
4. A copy of the firm's latest income statement together with information concerning leases, employment contracts, other contracts, etc.

5. A two- or three-year comparative statement of clients and fees received therefrom.

6. Listing of personnel, including salaries, ages, etc., and identification with key clients.

In those instances where initial contact is through a representative, all the information may be coded so as not to reveal the identity of the practitioner or his clients.

C. *What the agreement should contain.* There are many general circumstances present which may require different forms of agreements. Some of these circumstances are as follows:

1. The sole practitioner contracting with another sole practitioner.

2. The practitioner contracting with an established partnership.

An attorney should be selected to draw the agreement. The following are some, but by no means all, of the points that should be covered:

1. Effective date—or if contingent upon some future occurrence, the definition of such event, such as death, disability or retirement. In the case of retirement, the retirement age should be indicated.

2. Consideration to be paid and to whom—whether a per cent of fee billings or fee collections for a period of time, or until a certain sum has been paid. Types of payment, i.e., monthly, quarterly or semiannual settlement dates; coverage should also be given to what steps would be necessary in the event the successor dies.

3. If an agreement is effective at a given current date, the identity of the clients which are to be transferred should be disclosed, or, if effective at a future undetermined date, the manner by which the list of clients shall be determined.

4. Treatment of new interests acquired by a scheduled client after transfer to successor.

5. Treatment of uncollected accounts and work in process when the transfer becomes effective.
6. Treatment of service after transfer to scheduled clients that is broader and different from that rendered by the predecessor practitioner.
7. Treatment of corrective service required after transfer because of error or omission of the predecessor practitioner.
8. Provision for accountants malpractice liability insurance carry-over to avoid inheriting the liabilities, if any, of the predecessor practitioner.
9. Tax treatment required for both parties to the agreement.
10. Treatment in certain instances where successor desires to discourage work or discontinue serving client for reason that the assignment has proved unprofitable to successor.
11. Treatment where clients are dropped for reasons other than that they are unprofitable to successor.
12. Treatment where clients may have been billed for work not started or uncompleted at date of transfer.
13. Agreed upon list of individuals considered suitable and competent to serve as arbitrators in event of disputes between practitioner and successor.
14. Provision for transfer of certain employees who desire to continue with successor.

D. Effecting a smooth transfer to successor.

1. Death or disability—In order for a practice continuation agreement to work satisfactorily for either party, it must contain provisions to guard against the loss of clients due to a time-lag in succession. Experience has indicated that delays that occur while an executor goes through the legal formalities of disposing of a practice, cause clientele to scatter to other certified public accountants who are not a party to the agreement. Such clients have the same right to change accountants as any other

client. It, therefore, behooves the advance planning CPA to do those things that will effect an immediate, timely transfer upon his death or disability.

Accordingly, the agreement should bind the executor and the heirs or assigns of the deceased to transfer the practice immediately. The agreement should require the practitioner to prepare a form letter to be released to the clients to be transferred immediately after the death of the practitioner. The form letter should explain the reasons why the successor had been chosen and should request the client to continue as the client of the successor CPA. With such letter should go a simple blank statement for the signature of the client authorizing the executor or other representative to turn over the work papers of that client to the successor. The client should be requested to sign the form and return it immediately to the successor accountant, who will take it to the representative of the practitioner in possession of the work papers and obtain delivery of them.

2. During life—The foregoing procedures are applicable only in instances where a practice is continued by another as the result of death or disability of a practitioner. Many of the procedures, altered to fit the circumstances, are applicable where a practice transfers to a successor during the life of the practitioner. The mortality rate of clients who do not make the change is lessened by the personal contact of the retiring practitioner.

Taking in younger partners [3]

OUR PRESENT ECONOMY seems to be moving toward greater and greater specialization. In the accounting profession, this means specialization in the fields of taxation, electronic record keeping,

[3] A more detailed discussion of this subject is contained in Economics of an Accounting Practice Bulletin No. 7, "Selection and Admission of New Partners," American Institute of CPAs, 1959.

systems, estate planning, management consultation and even the first child of our profession, the audit. The latter spreads into the specialized audit of governmental agencies, insurance companies, banking institutions and public utilities, just to mention a few. To say that one person cannot adequately cover all these fields can hardly be questioned. The result is the need for accountants to join together in a partnership and pool their talents to offer this specialized service in addition to giving a more diversified and comprehensive service to each client. In a partnership there is the opportunity of having two or more partners to look after the affairs of the client. Therefore, in the event of the death of a partner, there should seldom be an occasion for the client of a partnership to become an "orphan." Finally, there are the benefits to the practitioner in a partnership, such as greater ease in arranging vacations, in attending professional meetings and seminars and in having a continuity of service in case of sickness or disability.

Many CPA practitioners, although operating as sole practitioners, have a staff varying in size from one inexperienced junior to a large staff of many competent accountants. Some of these staff men may be competent certified public accountants and may have contributed a great deal to the success of the practice. In any event they are, no doubt, faithful, loyal employees who have rendered their best efforts to the success of the practice.

Accordingly, if the staff includes a competent successor, or successors, the practitioner should not hesitate to take them into any plans for the continuance of his practice.

In addition to all other considerations that enter into a decision to vote for the admission of a younger partner, the CPA should ask himself the question, "How will I introduce this man as my partner?" Will he be introduced as your partner, freely, gladly and proudly or will there be a feeling of reluctance? In view of the fact that a professional partnership is one of the closest human relationships, it is necessary that the answer be in the affirmative.

An analysis of the younger man should begin when he is being considered for his initial employment. As a practitioner, are you looking for a junior accountant or for a possible junior partner? Are you looking for a mechanical worker or an inspired worker? Is the candidate looking for a job out of which he can live or is he thinking of where he may be ten years from now? Is he interested in getting ahead or interested in getting by? After being employed, he should be constantly observed as to his growth and development.

Regardless of personality, family connections, education, ability and experience, every partner must carry his own weight. This responsibility is discharged by the partners doing one or more of the following:

1. Performing specialized work of a highly technical nature.
2. Supervising and reviewing the technical work of staff men.
3. Developing and expanding the practice by (a) increasing the work being done for existing clients and (b) securing new clients.

Younger partners are generally not admitted on account of their specialty skill alone. They need to be capable of supervising and reviewing the technical work of the staff or be especially adept at developing and bringing in business.

Financial and other arrangements

FINANCIAL ARRANGEMENTS generally fall within two general categories:

1. Capital requirements.
2. Earnings distribution.

Capital requirements can vary widely. In some instances the capital is wholly or partially represented by a loan from the partners on which they draw interest. In other cases the capital investment is in direct relationship to the profit-sharing relationship after provision for partners' salaries.

The earnings distribution varies widely. The cash or accrual basis of computing income is one factor. Another factor is the policy of the partners drawing salaries and then allocating profits after salaries.

The more widely accepted practice seems to be the payment of a salary to the younger partner plus a percentage of the profits after salaries. Under this arrangement, a portion or all of the profit percentage due the younger partner is retained to apply on his obligation for his capital requirement. From 40 to 60 per cent of his profit percentage is the common range for such application.

The details of the financial arrangements should be explained, as it is not uncommon for a serious misconception to have been deeply implanted in an employee's mind. Generally, the capital requirements should not be discussed in detail until after the prospective partner has stated his desire to become a partner and is accepted.

The younger partner being admitted should not only understand what his rights are, but, more important, he should know what his obligations are. Under normal circumstances the new incoming partner will become a surviving partner several times before he becomes a withdrawing or deceased partner.

The prospective partner should receive a thorough briefing on partnership policy and standards, including a review of the duties, responsibilities and authority of each of the existing partners. Any immediately contemplated changes in their position in the partnership should also be disclosed.

Assuming there is an acceptance by the proposed partner to be a partner, the duties, responsibilities, and authority that he will assume should be explained fully. After a full understanding has been reached between the existing partners and the prospective partner, and all parties have agreed that a new partner is to be admitted into the firm, the partnership agreement should be revised or amended.

The important thing to remember is that all the conditions and bases of the new partner's interest in capital and earnings should be plainly stated either in a revised or amended agreement that is to be prepared. Any commitment by the existing partners to the new partner should also be embodied in the agreement.

After the agreement has been fully executed, an announcement of the admission of the new partner should be made as quickly as is practical. The firm's staff should be notified immediately. Engraved or printed announcements should go to all of the firm's clients as soon as the agreement is effective. Each of the old partners should make it his own project to introduce the younger partner to clients and business friends.

VALUATION OF GOODWILL

DURING THE PAST FEW YEARS, increased attention has been focused on the valuation of the goodwill of an accounting practice in the event of the practitioner's demise or incapacity.

At the outset, it seems desirable to define the area of this discussion. It will be restricted exclusively to the valuation of the intangible goodwill enjoyed by the sole practitioner or by the professional partnership. Except in unusual circumstances, uncollected or unbilled fees, work in progress, library, equipment and office furniture do not affect goodwill valuations.

Generally speaking, the practice of a living practitioner has a greater value because the transferor can furnish much background information usually not to be found in working papers, no matter how complete these may be. Furthermore, such a transfer is most effectively accomplished by a merger, with the transferor becoming a partner or limited partner for a number of years. Such method allows for the absorption of the transferor's practice smoothly and effectively.

In the transfer of the practice of a decedent, the foregoing advantages are not available to the successor and this would tend to have an adverse effect on the consideration for the practice.

In part, the problem of valuation is one of negotiation. From the standpoint of both an estate and a prospective successor, the value of a practice can be enhanced if the facts with respect to the practice are readily ascertainable. Among the important elements to be considered are the type of practice, gross fees over the last three to five years, average hourly or per diem rates, operating expenses and net earnings for the same past period, type of clientele, length of time that the practice was established and some indication whether the practice is static, growing or specialized. All of the foregoing factors have a bearing on the valuation of a practice. It must be admitted, however, that the most important factor is the one of gross fees, for most transfers have been made in terms of gross fees. Generally, these have been related to the fees received during the last twelve months. In some instances, the value of the fees has been determined by aging the accounts of clients on an individual basis and applying to the gross fees of the last twelve months a sliding scale of percentages—with the highest percentages being applied to the gross fees from these clients served in excess of four years.

In the case of an individual practitioner, the most important and helpful schedule which he can prepare is one which lists all of his clients, their addresses, type of business, amount and analysis of annual fees, standard billing rates, nonrecurring fees from regular clients, and a short description of work performed, together with such other remarks as seem pertinent. It appears desirable that such schedule be reviewed and revised annually. With an annual revision of the schedule and with all of the prior years' schedules retained, almost all of the data other than operating expenses would be readily ascertainable. The estate would then be in a much better position to furnish pertinent data to a prospective successor, and both parties would be enabled to negotiate in an intelligent manner.

Dealing specifically with the valuation of goodwill, it is unwise to attempt an exact mathematical formula. There are so many factors which enter into an appraisal of a practice that it appears preferable to discuss these instead. Where death has occurred, a number of practices have been transferred for a consideration amounting to one year's gross fees. Where the economic circumstances, geographical location and unusual features of the practice have a decided bearing on its value, both the estate and prospective successor should give careful consideration to these elements. Looking at the problem first from the standpoint of the estate, its representatives must satisfy themselves on a number of questions, of which the first and probably the most important is, "Is the practice transferable?" There are instances where, for any one of a number of reasons, clients have refused to acquiesce in the transfer. Secondly, the practice may have been of such a specialized nature that no transfer is possible.

Having satisfied themselves on the matter of transferability, the estate representatives will want to consider how lucrative the practice was. It is obvious that the more profitable the practice, the more desirable it will be to prospective successors.

Is the practice likely to remain desirable for a number of years? Will the rapid changes in our economy have an adverse effect on the practice in the foreseeable future? Will the practice require special talents and, if so, can one with similar talents be interested in acquiring the practice? If the over-all situation is favorable, it may well be that a prospective successor would agree to a valuation which is greater than one year's gross fees.

Tax considerations will also have an effect on the valuation of a practice. If the amount to be received by the estate constitutes goodwill, the estate representative probably would be satisfied with a lower valuation than if the amount to be received by the estate constituted ordinary income. By the same token, a successor could be induced to agree to a higher valuation if he can be assured that the payments can be expensed or amortized. If these payments must be capitalized for income tax purposes, a less generous attitude on his part is to be expected.

The representatives of the estate should be cautioned against undue delay as bitter experience has proven that a practice evaporates rapidly unless successors can be brought in quickly. A prompt transfer provides the best means of keeping a practice intact and realizing on the value of its goodwill. Long drawn out negotiations, in the hope of receiving a better offer, inject an element of risk which should be avoided.

This discussion should make it evident that the valuation of an accounting practice cannot be reduced to a simple mathematical formula. In arriving at a fair realizable valuation, estate representatives will have to include the following in their deliberations:

1. The transferability of the practice in whole or in part.
2. The profitability of the practice according to generally accepted standards.
3. Whether or not the prospective successors have sufficient experience and skill to maintain the practice successfully. This is particularly important where payments by the successors are to be made over a period of years.
4. Assuming transfer into capable hands, the determination of whether or not the economic outlook for the particular practice is favorable.
5. Tax treatment of consideration to be received for the transfer of the practice.
6. Geographical location in terms of concentration of practitioners.

The prospective successor should consider, and give careful thought to, the same questions which demand the attention of the representatives of the transferor's estate. In addition, the prospective successor should weigh the following with studied care:

1. The ease and facility with which the acquired practice can be integrated with his own.
2. The over-all percentage of the acquired practice that he can reasonably expect to hold.
3. Whether the rapid changes in economic conditions and obsolescence brought on by technological improvements will have an adverse effect on the acquired clientele.
4. Whether the acquired practice will create or make acute administrative and/or personnel problems beyond the ability and capacity of the successor.
5. Whether the prospective successor is young enough to enjoy

the fruits of the acquisition after the payments have been completed.

6. Tax treatment of consideration to be paid for acquisition of the practice.
7. Possible conflict of interest between clients resulting from transfer.

PLANS FOR WIDOW OR HEIRS OF A DECEASED CPA PRACTITIONER

MAN, WITH FEW EXCEPTIONS, strives for some goal in life. We in the profession of public accounting have a variety of personal goals, but there is one thing which is common to most. It is the desire to care for those dear to us, and make provision for their care in the event of our death.

Whether a CPA is practicing on his own account or is a member of a partnership, it must be kept in mind that a professional practitioner is not selling a product, but is rendering a service and that his principal asset is himself, i.e., his ability to provide his professional services to others.

The first thing a practitioner should do in planning for his widow and heirs is to acquaint his executor with the principal facts about the business. Coming under this heading are such things as method of accounting, agreements with or plans for his employees, and other pertinent information regarding his practice. A brief written summary of these items would assist the executor's memory if they were carefully discussed at the time written. Periodic reviews with the executor, say once a year, would also bring out changes in plans and agreements which may result in a revision of the written memorandum.[1]

During the past few years much has been accomplished by the

[1] See also Preparation for negotiations, page 12.

profession at national, state and chapter levels to assist the estate of the practitioner or his widow or heirs. If a practitioner has not made adequate provisions for the continuance or disposition of his practice at death, the least he should do is fully acquaint his widow or heirs with the assistance they can obtain from these organizations within the profession.

Appendix B contains an Emergency Professional Assistance Plan which can be used as a guide by state societies and local chapters for an orderly procedure to assure that the practice of the deceased is transferred to another practitioner, or to other practitioners (as the case may be), with the greatest possible benefit to the estate of the deceased. By working under the provisions of this plan, heirs of the estate will benefit from the services of persons most thoroughly acquainted with the function and objective of an accounting practice. The members of these state or chapter committees are practicing accountants who are highly respected in the profession and the community in which they reside. They not only know how the accounting profession functions, but are most apt to be aware of conditions under which the profession functions in the community. They may even be better informed, or at least have more knowledge regarding the practice of the deceased than his widow or heirs. It is certainly most logical to assume that working with members of this committee should in most instances result in the most profitable transfer or disposition of the accounting practice of a deceased member and bring the greatest economic benefits to the widow or other heirs. One thing to be emphasized is that time is of the essence and that action should be taken promptly to obtain the assistance of this committee or any other assistance available for accomplishing the same or similar results.

Life insurance coverage is available to just about every living person in one form or another and is, therefore, not peculiar to certified public accountants. Members of the Institute are in a most advantageous position in that they can obtain life insurance protection in quite substantial amounts, at a very reasonable premium, through the Institute's Insurance Trust. More specifically, this is group life and accidental death and dismemberment term insurance under group policies issued to trustees of the Institute's Insurance Trust. If available cash is a major limiting factor, this insurance protection would seem to be the most practical way to provide the nucleus of a personal estate for the care and support of the family of a practitioner in the event of death. It normally takes years to build up a practice to the point where it has a value which can be passed on to others by sale or other means, but an estate in this plan can be created in the length of time it takes a member to make application for the insurance coverage. Being a group policy, even the time for a physical examination is dispensed with.

Attention is also called to the fact that many state societies have group health and accident insurance policies. This insurance does not directly tie in with "plans for widows and heirs," but does have an indirect relationship and frequently is of consequence in the event of an accident or lingering illness preceding death. This type of insurance protects an estate in that it helps preserve the estate by providing medical and hospital expense payments and weekly or monthly payments to cover at least part of the cost of living when professional practice income may be reduced or even nonexistent. If such payments and income were not available, it is logical to assume that the estate would be depleted by a like amount. Depending on the size of the estate, this could be serious for the widow and heirs.

Reference has been made to information a practitioner should impart to his wife or others who might benefit from his estate in the event of his death. The better organized a practice is, the better are the prospects of disposition of that practice or working out arrangements with a successor on a sharing of fees basis in the event of death. The best way to make such provision is by maintaining complete records. The key or central record for such use would be the client ledger. Each client's sheet should show the type of work done for the client, the fee rate for the various types of work, basis of billing (per job, monthly, etc.), invoice number (so detail of billing may be reviewed) and the dates on which payments are received. If the practitioner has others in his employ, their time and rate charges should be shown.

Work papers are equally important. If a successor is to continue the practice of a deceased practitioner, he should not have to make an "audit" of the work papers to get a starting point. Work papers should be properly indexed, references clearly shown, legibly written, neatly arranged and so organized that a successor can continue on without breaking the stride of operation. It should be kept in mind that it is necessary to obtain permission of the clients to make available to the successor the working papers and other documents.

If the practitioner has staff members, his personal files should fully record his relationship with these persons. The payroll records would, of course, disclose the salary scale, but what about commitments on future raises, year-end bonuses, vacation pay, sick leave policies, travel time and travel expense reimbursement? It is very probable that the staff members of the deceased practitioner would have to conform to the compensation program and related policies of the successor practitioner, but it would be most helpful to the latter to have this information and probably would result in a more amiable transition.

The following could well be the most important if such action had been taken. What has the practitioner done in making provision for the continuation of his practice in the event of his death? Does he have staff men capable of continuing the practice, and, if so, has he had any discussions with these men, worked out any plans or made any written, or even verbal, commitments? If this is done, memorandums covering these items should be in the files. The practitioner should indicate the person or persons he deems most capable on his staff to continue the practice and what in his opinion would be the most satisfactory financial basis for these staff men to take over the practice. Has he had any discussion with other practitioners about taking over his practice in the event of his death? Have any commitments been made in this regard, and, if not, what discussion has taken place? Even if nothing definite has been worked out, a brief summary of any such discussions together with the practitioner's comments and conclusions would be most helpful to the survivors in arranging a transfer of the practice. A statement by him placed in his file as to who he would consider is the best and most logical practitioners to contact in the event of his death, would also be helpful. Comments, suggestions or recommendations, maintained currently by the practitioner, which might not seem too significant to him at the time he records them could be most helpful in transferring his practice in the event of death. This could be a great aid to fellow practitioners who might be working with the widow or heirs under an Emergency Professional Assistance Plan previously discussed.

In the light of the foregoing, the following are some courses of action which may be taken to perpetuate a practice:

1. Take all necessary steps to make the practice as "self-continuing" as can be done in accordance with the suggestions and recommendations set forth in the preceding paragraphs. The more self-sustaining the practice is, the greater the financial benefit to the widow or heirs.
2. The practitioner should carefully survey and scrutinize certified members of his staff to see if it contains the potential to carry on a practice. Could this be best accomplished by making arrangements with a single person or a group of two or more? If two or more, is there assurance that they would work together as a team? A molding of such a team could be accomplished short of a partnership by organizing them into a profit sharing group. By this means, co-ordination in the group could be accomplished. Anyone who did not fit into the group could be excluded so that, in the event of the practitioner's death, there would be a well co-ordinated group to take over on the basis of some plan which could be worked out and be ready to function on death.
3. Make a careful study and analysis of the other practitioners in the area and select from that group several who, it is felt, conduct a successful practice and with whom you would choose to be associated if such a decision became necessary. Having made this decision, arrange conferences to see if one or more of the group would be receptive to work out an arrangement to take over your practice in the event of your death. When the choice of the one best qualified is made, meetings should be arranged to work out an orderly program for the other practitioner or firm to take over the practice. The basis of acquisition, whether by outright purchase or percent-

age of fee basis for a stipulated number of years, should be either covered by an agreement or at least stipulated in writing and signed by the practitioners involved so that an agreement could be drawn up from such stipulations without controversy. The wife should sit in on the final meetings so that she would have knowledge of what was transpiring and a general understanding of the principal points which had been discussed and agreed upon. It could also be very beneficial to have the final meeting with an attorney who could draft the stipulation. The greatest benefit from the attorney's service would be his acquaintance with the facts should it subsequently be necessary to put the plan in operation.

4. Procedures outlined in the preceding paragraphs may lead to what most practitioners feel is the best "plan for widows and heirs," and that is a partnership. With rare exceptions, partnerships are most apt to provide the means for the effective perpetuation of a practitioner's efforts, ideas, objectives and plans. The more effective this perpetuation is, the greater will be the final benefits to the widow and heirs. In a partnership, it is seldom necessary to break stride in the continuation of the practice. If the partnership is properly organized, the client may have lost a good friend, on the death of the practitioner, but he should not have lost his accounting service. The client can be served in the same manner as before, and that is one of the prime objectives of a successful practice. It is strongly contended that the partnership is the best means of continuing a practice after death, as well as providing the greatest financial benefits to the widow and heirs.

Buy-out plans

Two TYPES of buy-out plans shall be given the major considerations for plans to benefit the widow and heirs. Some variations of each to meet more specific needs will also be covered. These two types are generally referred to as the "entity purchase" and "cross purchase" agreements. While the discussion of these plans will be on a cash acquisition basis, it must be recognized that life insurance coverage is rapidly becoming a means of achieving a successful financial settlement.

A. *Entity purchase plan.* This plan usually requires the partnership to acquire and the estate to dispose of the partnership interests of the deceased partner. Under this plan, the partnership operates as a single unit rather than an aggregation of individuals conducting a business with a mutual purpose or objective.

If life insurance is employed to fund this plan, the partnership purchases insurance and pays the premiums on policies on the lives of the partners and retains ownership of the policies. Upon the death of a partner, his interest is acquired by the firm for the surviving partners through the use of partnership funds which are proportionately increased from the proceeds of the insurance on the deceased partner's life. This "pooling" method reflects each partner's interest in the firm proportionately in the payment of premiums for insurance on the lives of partners, including their own lives, and also provides a practical way for paying premiums, particularly if the firm has younger members or members who are financially unable to carry cross-purchase insurance on older members of the firm. This "equalization" may place some extra burden on older members of the firm. However, since the odds are that the older members will predecease the younger members, the purchase agreement or plan for estate tax purposes will be of more advantage to and will ordinarily hold a more immediate appeal to the older members.

Where, under an entity purchase plan, the partnership pays the premiums, it is not advisable to have the proceeds paid to the insured's estate. Such a procedure will not avoid the imposition of income taxation upon that portion of the proceeds received which represents the price paid by the partnership for the deceased partner's share in income items.

B. *Cross-purchase plan.* This type of plan is rather simple in its operation. Under the cross-purchase agreement or plan, each partner agrees with the other partners that upon his death his share of the partnership assets will be transferred to the surviving partners and the other partners agree to acquire such share in agreed upon pro rata amounts. The plan is most effective where the number of partners is small. It adapts itself well to funding through the use of life insurance.

Under this type of funding agreement each partner applies for and owns a policy or policies on the life of the other partner, naming himself as beneficiary and paying all premiums on the policies he owns. When one partner dies, the contract stipulates that the survivor shall collect the insurance proceeds and shall pay such proceeds to the decedent's heirs for the decedent's partnership interest. In paying the premiums on the insurance on the life of the other, each partner has immediately established a fund to purchase the interest of the partner who predeceases him. If there is a difference in age, it is true the younger partner will pay a larger premium, but probably fewer premiums because of the shorter life expectancy of the older partner. The younger partner normally will also have more to gain because, in most instances, the practice will have been started by the older partner and be established when the younger partner comes on the scene. A similar situation exists where one partner owns a greater share than the other. The partner purchasing the larger interest should carry more insurance on the partner owning the larger interest.

It should be noted that life insurance proceeds received under this plan are not subject to income tax in the hands of the survivor. The policies owned by the decedent on the surviving partner's life may be transferred to the survivor at the cash value or any other predetermined value provided provision is made in the agreement. The proceeds from policies transferred in this manner will be received, income tax free, by the beneficiaries of the surviving partner.

C. *Other plans.* The two plans discussed in the preceding paragraphs provide for what might be termed a lump sum acquisition and disposition. In many instances, it may be desirous to employ a plan which provides for the acquisition of fixed assets, accounts receivable, work in progress and supply inventories for cash and then sharing profits or revenue, on some stipulated basis, with the heirs of the decedent over a period of years. This type of plan has much to recommend it in the acquisition and disposition of an individual practice or in the small partnership where the members of the group have the estate of the deceased partner's share in profits for a specified time. By using this plan, the original partnership continues in existence after the death of a partner with the deceased's estate receiving a share of the partnership's net earnings during that period. Care should be exercised to avoid terminology which might imply an acquisition or disposition of goodwill which could lead to the conclusion that the surviving partners were acquiring the deceased partner's interest which would make it a capital acquisition and result in the income being taxed to the surviving partners. In a partnership, this procedure is based on the fact that each partner's services over the years have contributed to the expectation of future income. For provisions in the event of death, the partners may agree upon a sharing of that income. Such agreement may be in many different patterns and the payments may vary from a few years to life in the case of older partners. The payments may be a fixed sum, or they may be a percentage of past income or of future income. They all, however, involve one basic concept; the deceased partner is "sharing" in the current earnings of the partnership. In the two types of practice (proprietorship and small partnership) cited, it is difficult to predict what the future conduct of the professional practice will produce in revenue, but, by sharing it, the estate of the deceased partner and the successors each receive financial benefits in direct proportion to the success achieved in continuing the practice. It also gives incentive both to the practitioners continuing the practice and to the heirs to work closely together and achieve the greatest financial return for their combined efforts. This plan does not require tying up taxed dollars, as happens in the case of the acquisition of goodwill for cash, because the revenue shared with the estate or heirs of the decedent is taxable as income to the latter. The successor practitioner or surviving partner would be paying a tax only on the revenue he received and retained for his own use. Life insurance could be used in funding the acquisition of fixed assets, especially if an office building was involved in the acquisition. Receivables and work in progress could also be covered by such insurance funding, but this would not be as essential since these may be considered selfliquidating acquisitions. It could be stipulated that the successor or surviving partner would merely collect such receivables and the amount due for work in progress and, thereby, never be in legal possession of these funds.

RETIREMENT BY DISABILITY

"RETIREMENT BY DISABILITY" implies complete and permanent disability. What constitutes permanent disability and how it will be determined will have to be covered by agreement. In the case of the individual practitioner, he will probably make that decision unless he is incapable, in which event a person or persons whom he should have designated in his agreement would do so. When that decision is made, the practice would be conducted or disposed of in accordance with the plan. In the partnership agreement it would seem desirable to stipulate to some degree what constitutes partial and complete disability.[1] This may be determined or measured by the time or period of absence from work with some maximum period of complete absence constituting retirement by disability. The merits of each case would have to be considered in drafting provisions covering the interim period.

Providing for retirement because of disability follows the same pattern and types of plans employed to provide for widows and heirs in the event of death.

Insurance protection is very general in its application and is one of the most effective substitutes for man's earning power which

[1] Appendix A, page 47.

may be destroyed or limited by disability. The extent to which insurance can substitute for lost earning power will depend upon the type of insurance protection selected and the amount of coverage carried. As a professional man, the CPA's revenue is dependent to a great degree on the service he can personally render to his clients. The businessman has a capital investment in tangible assets which in most cases is capable of carrying on in producing income for him, but the professional practitioner's income is very apt to soon end, or certainly be greatly reduced by continued disability. Most state CPA societies have arranged for adequate group medical and hospitalization insurance, including major medical plans. It is, however, up to the individual practitioner to check into, decide on, and choose the income continuance type of insurance best suited to his needs.

Comments made in the section on "plans for widows and heirs" with respect to getting a practice arranged and established so that it may be continued by another with a minimum amount of interruption and loss of continuity are applicable to the same degree in working out a plan for retirement by disability.

The sole proprietorship is characterized by the fact that complete control and existence of the practice rest with the individual. He may be the type of person who does not wish to form a partnership as he has a greater feeling of independence in practicing on a sole basis. This and other reasons are to him justification for operating independently, but inherent also are such problems as what happens to the conduct of his practice in the event of disability, how his clients will be served, how his staff will function, etc.

The individual practitioner can assure continuity of his practice (other than going into partnership) primarily in two ways. He may arrange with his staff personnel to continue the practice, or he may make arrangements with other local accountants to assist in serving his clients. If disability is not complete, this could of course be done after such disability occurred, but a delay in making such plans should be avoided. As in all probability they would have to be made hurriedly, would probably be worked out in a haphazard manner and would leave the practitioner at a decided disadvantage in working out the terms and provisions of the agreement. The person who desires to practice on an individual basis should definitely work out some plans of continuing his practice with either his staff personnel or another accounting firm before such disability may occur if he hopes to avoid the loss of part or even all of his practice.

Another method proposed to protect against disability is the partnership. This form of practice can be even more beneficial in the event of disability, should it occur, than in the event of death. In fact, with a proper partnership agreement the partner suffering the disability would need have no concern about the continuity of the practice during such disability. If the disability were partial, the active partner or partners could fill the gap created by the absence of the partner suffering the disability. If the disability was permanent, procedures to be followed would already have been incorporated into a plan or agreement worked out while the practitioner was in full command of all of his faculties.

The provisions in a plan or agreement to cover retirement by disability would in all probability be very much the same for an individual practitioner working out a plan with his staff personnel or other local accountant, as they would be in the case of partners working out such provisions in a partnership agreement.

RETIREMENT BECAUSE OF AGE

THE SINGLE PRACTITIONER without employees has a number of choices as to how to retire:

1. He can take a young practitioner in and arrange to retire over a period of time with an understanding as to payment.
2. He can merge with another firm with an understanding that he is to retire over a period of time, and the method of payment.
3. He can transfer his practice to another accountant or firm of accountants with payments arranged to be paid either monthly or at stated intervals.

The single practitioner with employees has one additional approach to the problem than the practitioner without employees. He can arrange for one or more of his staff to take over with arrangements made for his complete or gradual withdrawal and method of payment.

Where, in the case of a small- or medium-sized partnership, one of the partners desires to retire, the agreement for the disposal of his interest is usually subject to negotiation. Usually the agreement provides for payment of the partner's capital account, and some additional amount for goodwill, clients, or past services. This additional amount may range from one to three years' earnings by the retired partner or one year's gross fees from clients contributed to the firm or supervised by him. Actually, the payment of two or three years of earnings as a total retirement benefit would be not more than a partner might be entitled to, if he were to sell to the firm the clients he is leaving to it.

In the larger firms with ten or more partners, the current policy seems to be a compulsory retirement age of around sixty-five. Should there be no arrangement, a partner who is not financially independent might resist retirement even beyond his usefulness and to the detriment of the firm.

An arrangement that could be helpful to the firm is a gradual transition from active to partly active to inactive. Under this type of arrangement it would be possible to start retirement at the age of sixty by reducing the work load and, with each succeeding year, reduce the work load further, so that at age sixty-five the partner would be in complete retirement. After reaching this age, the retired partner may be retained as a consultant.

Many retirement plans have clauses which require the retiring partner to work during the months of January through April, when the work load is the greatest. These plans gear the compensation to the number of months worked with the time not worked.

A retiring partner is entitled to a return of his capital investment and, where the agreement so specifies, a payment for goodwill. When retirement proceeds gradually, the capital investment and payment for goodwill can be retired gradually.

Accounting partnerships that desire assistance in drawing up a partnership agreement, and that wish to incorporate a paragraph, "retirement due to age," could utilize the data which appear on pages 58-60 in Appendix A.

TAX CONSIDERATIONS

THE TAX IMPLICATIONS of forward planning in connection with the acquisition or the continuation of an accounting practice are as involved and complicated as are the usual terms of agreements which are necessary to implement the planning. The practitioner planning to protect the economic interest of his wife and heirs in the event of death or disability usually provides that an agreement to accomplish this shall become effective upon his death or disability and, thus, the tax impact in such an instance may involve income taxes, estate taxes, or state inheritance taxes.

The tax problem is divided into two areas, that of the person acquiring (or continuing) a practice and the person disposing of a practice. The former is desirous of having as large a portion as possible of the payments constitute a deduction for income tax purposes, while the latter usually wants to realize a long-term capital gain as the result of the disposition of his practice. As is self-evident, these desires are directly opposed and one party must sacrifice a tax advantage if the other is to realize one.

While one of the primary objectives of the practitioner or firm acquiring or continuing the practice is to write off as large a portion of the payments as possible for income tax purposes, it is unfortunately true that relatively few avenues are available by which to arrive at this goal.

The practitioner who provides for the continuation of his practice usually has certain types of assets to transfer. They are:

A. *Accounts receivable—billed and unbilled.* Since many practitioners are on a cash basis of accounting for income tax purposes, the transfer of the billed and unpaid service charges usually results in the creation of ordinary income to the seller. Naturally, when such accounts are transferred to one who will continue the practice and the invoices are paid to such successor to the practice, the amounts received are taxable to the successor only to the extent that they exceed his cost. Sums paid over to the predecessor practitioner usually are fully taxable to the predecessor or his estate as ordinary income. If such accounts have been included in a Federal estate tax return of the deceased practitioner, credit may usually be claimed for income tax purposes. From the viewpoint of the person or firm continuing the practice, should it later be definitely determined that an account so acquired cannot be collected, the successor will be entitled to write off his cost of the uncollectible item as a bad debt.

B. *Covenant not to compete.* In the acquisition of an accounting practice, the successor usually insists that a large portion of the consideration be specifically assigned to a covenant not to compete. If the cost of the covenant not to compete is to be amortized and deducted for income tax purposes over the period of the restriction, it must be bona fide and constitute a real restriction upon a person, who, in the absence of such covenant, would probably prove a worthy competitor. The amount received by the seller will constitute ordinary income. The Commissioner of Internal Revenue has successfully contended in the courts that it is not sufficient merely to have the contract allocate sums to a covenant not to compete, but that the covenant must be bargained for and have a real value. The substance of the covenant will be controlling and amortization may be denied on the grounds that the covenant not to compete has no business reality and actually represents disguised goodwill.

C. *Sale of goodwill.* Formerly it was contended that goodwill, when purchased, could properly be written off in the form of amortization or depreciation for income tax purposes. In order to make more certain that a deduction for the cost of goodwill could be spread over its life, some practitioners acquiring practices arranged that the goodwill be assigned to specific accounts on the theory that if a particular account were to be lost, the amount of goodwill assigned to it could then be written off for income tax purposes. Unfortunately, the Internal Revenue Service has long ruled, and the courts have agreed, that goodwill is not subject to depreciation. The attempt to write off goodwill assigned to specific accounts when such accounts have been lost has met similar treatment. Accordingly, it appears improbable that any tax benefit can be obtained for sums paid for goodwill until such time as the successor disposes of the practice.

When the practitioner contracts to dispose of "goodwill" in order to create a capital gain, the Internal Revenue Service is prone to contend that the practitioner is not actually disposing professional goodwill but is transferring a share in future profits, which would constitute ordinary income. However, the U. S. Tax Court has sustained the taxpayer's contention that goodwill may exist in connection with an accounting practice and may, in proper circumstances, be sold as such.

When there is agreement between the successor and the practitioner who is transferring his practice to another that one of the assets shall be goodwill of X dollars, there remains the necessity to satisfy the Internal Revenue Service that the goodwill is bona fide.

In light of the various problems and circumstances surrounding the determination of whether goodwill is taxable as ordinary income or as a capital gain, practitioners are cautioned to consider all such tax aspects before making provisions for goodwill in any agreement for the disposition or acquisition of an accounting practice.

Retirement of partners

WHERE PAYMENTS are made in liquidation of the interest of a retiring partner, the payments are divided into two classes: (1) payments in exchange for the interest of the retiring partner in partnership property, and (2) all other payments. If they fall into the first class, they are treated as liquidating distributions. To the extent that they are in cash and exceed the partner's basis for his interest, they are taxable as capital gain. If they fall into the second class, they are treated either as distributive shares of (partnership) income or as "guaranteed payments." The second class of payment is of the type commonly found in professional partnerships. The basic concept is that the retiring partner is sharing in the current earnings of the partnership. The payments are treated as distributive shares of partnership income and are taxable to the retired partner just the same as if they were made to an active partner. Conversely, these amounts are not included in the distributive shares of the remaining partners or successor practitioner.

Care should be exercised to see that the amount specified as payable for the interest in (partnership) property is clearly set forth.

Deceased partner

Payments to a deceased partner are generally treated as liquidating distributions to the extent that they are made for his interest in partnership property. Otherwise, they are treated as a share of partnership income reportable by the beneficiary of the decedent and excludable from the income of the surviving partners. For this purpose, payments for unrealized receivables not previously reported as income are income payments. So, too, are payments for goodwill unless the partnership agreement specifically provides for a payment for goodwill.

Life insurance

Life insurance was discussed and recommended as one way of funding the acquisition and disposition of a practice. It must, however, be kept in mind that the premiums paid on such insurance are nondeductible as a business expense for income tax purposes when the business is directly or indirectly a beneficiary. Proceeds from such insurance, at the death of the insured, will ordinarily be nontaxable income, if received in a lump-sum settlement. If an installment method of settlement is employed, some portion of the payments, generally the amount in excess of the basic settlement, will probably be taxable.

Where life insurance is received for an interest in a partnership, there may be a question as to whether both the partnership interest and the insurance might be taxed in the decedent's estate. However, it seems apparent that the taxing authorities will not attempt to tax both the proceeds of insurance and the value of the partnership interest in the decedent's estate.

General comment on tax considerations

There are many tax considerations which could be considered, and there undoubtedly are also many other factors which should be considered in given situations, many of which are or would be peculiar to each plan or agreement. The important point, however, is to put a plan or agreement in operation, taking into consideration existing tax implications and being sure to review it periodically. Such review will bring to the attention of the persons who are parties to the plan any changes in the Code which require that the plan be amended.

CONCLUSION

EVERY PUBLIC ACCOUNTANT is confronted with possible disablement or death while actively engaged in conducting his practice. It is impossible to determine when such an event may occur.

At this point, it should be recognized that practitioners can achieve basic protection by making plans for the continuance of their practice before such an emergency strikes.

There are several methods by which practitioners can achieve this protection. Regardless of the methods available to advance planning practitioners, the primary purpose of each such method is uniform in attempting to achieve the maximum economic benefit for the widows and heirs, as well as satisfying the practitioners' professional responsibility to his clients.

It is, therefore, incumbent that every practitioner put into effect today a plan for the continuance of his practice.

APPENDIX A

SAMPLE PARTNERSHIP PROVISIONS

IT IS THE PURPOSE OF THIS SECTION to disclose common provisions found in partnership agreements relating to the continuance of a practice in the event of death, illness or incapacity, or retirement because of age. The material submitted is intended to render assistance to those forming new partnerships and a check list for those with existing partnership agreements.

The basic problem in partnership agreements relating to the continuance of a practice is the payment of a fair value to the estate of a deceased partner or to an incapacitated or retiring partner while keeping the payment within reason in order that too great a burden will not be put on the surviving or remaining partners. Death or retirement benefits paid simultaneously to two or more partners could place an undue hardship on the remaining partners so that it would be difficult for them to make the agreed payments under the partnership provisions and, at the same time, earn a fair return for their labors. For this reason, partnership agreements may provide that a partner may not retire while payments are being made to another retired partner or a deceased partner. To minimize the risk of paying two estates simultaneously, the age group of the partners selected for membership in the firm should be considered. The ideal situation would be to have ten-year intervals between partners' ages.

Life insurance may be used to fund death payments to partners with the use of health and accident insurance as a partial assistance in the event of illness or accident. Retirement policies are not common in connection with partnership agreements as it is considerably more expensive. It would seem, therefore, that it could be less burdensome on the remaining partners to pay off in the event of death than in the event of retirement or incapacity. However, a retired or partially incapacitated partner may still render valuable services to the partnership, and provision should be made for the value of his services.

To a certain extent, under the present Internal Revenue Code, a partnership may plan in advance who shall pay income taxes on payments to the estate of a deceased partner or to a retiring partner. The method of accounting for income tax purposes and the wording of the partnership agreement will control the taxability of payments resulting from death or retirement of a partner. If payments result in ordinary income to the successor of a deceased partner or to a retiring partner, and are deductible by the remaining partners, larger payments may be provided. This question must be decided in advance after taking the many factors into consideration, including probable income tax bracket rates of the parties to the agreement. In many cases, a retired partner or the estate of the deceased partner will be in a lower income tax bracket than the remaining partners.

Survey of partnership agreements

A PRELIMINARY questionnaire was sent to a selected group of practitioners by the American Institute of Certified Public Accountants and, upon request, a number of firms submitted their actual partnership agreements, or excerpts from them. These agreements were submitted for the public-spirited purpose of sharing information with the membership and appear to be a fair cross section throughout the country. Various sized firms are represented. It is impossible, of course, to develop a perfect or ideal partnership agreement because of the varied problems of each partnership.

Continuance of the partnership

ALMOST EVERY agreement submitted provides that if a partner dies, retires, or becomes incapacitated, the partnership shall not terminate but shall be continued by the remaining partners. Several agreements provide that upon the death of a partner the partnership business shall not terminate but shall be continued as a partnership among the surviving partners and the estate of the deceased partner. On the other hand, at least two agreements provide that upon the death of a partner, the surviving partner (or partners) shall be obligated to acquire the deceased partner's interest.

Careful wording of this section of the partnership agreement is necessary because of the tax implications.

Bookkeeping methods

PARTNERSHIPS generally keep their books on the basis of cash receipts and disbursements or on the accrual basis method of accounting. The method of keeping books is a determining factor as it relates to settlement of partners' accounts and the partnership agreement should clearly state what is meant by capital accounts, profits, etc.

At least two of the agreements received in our survey state that the books of account shall be kept on the cash basis for tax purposes; for the purpose of accounting among the partners and for the purpose of settlement of all partners' accounts, additional financial statements shall be prepared on the accrual basis.

Partnership agreements provide for division of profits on a straight percentage method or by a straight percentage method after deduction of partners' predetermined salaries. Other factors used in determining partners' division of profits are (a) time worked, (b) goodwill owned, (c) volume of business contributed by each partner, and other intangible considerations.

Termination

When does a partnership interest terminate for a deceased or retired partner? This is an important question from an income tax standpoint as well as for determining payments due as the result of death or retirement of a partner. Usually a partnership does not terminate for income tax purposes but continues until all payments are made to close the interest of a deceased or retired partner. This is true even in the case of the death of a partner in a two-man partnership. However, care must be exercised in wording the agreement to prevent the inadvertent termination of the partnership or the bunching of income in the year of death or retirement.[1]

Of the agreements submitted, there are almost as many variations in their termination date as the number of agreements inspected. Several agreements state that, if a partner dies or retires, his interest in the capital and income of the firm shall be determined as of the end of the month in which he dies or retires. Other agreements provide:

1. His share of the profit for the fiscal year in which retirement, death, or incapacity occurs shall be determined on the basis of the ratio of days of his service to the total days in the fiscal year.
2. The date of death of the deceased partner.
3. The end of the last month preceding his death or retirement.
4. The estate of a deceased partner shall continue as a member of the partnership until the end of the fiscal year in which death occurred and shall participate in the net earnings of the partnership. The salary allowance to the partner's estate shall be 50 per cent of his salary allowance at the time of his death.

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[1] A more detailed discussion of this subject is contained in Economics of Accounting Practice Bulletin No. 12, "Selected Tax Problems of Accounting Partnerships," AICPA, 1960.

5. If any partner shall die, neither the partnership nor the interest therein of the deceased partner shall terminate but shall continue, and the personal representative of the deceased partner shall continue to participate in salaries and profits in the same manner as if death had not occurred until the end of the fiscal year.

Payments in the event of the death of a partner

SOME PARTNERSHIP agreements provide that all partners are general partners while others provide for various classes of partners with different provisions for each separate classification. Agreements refer to founding partners, executive partners, salaried partners, junior partners, etc. These special classes of partners result from the different practices in admitting new partners. Some partners are admitted without contributing any capital or without any payment for the value of the practice or "goodwill."

Most partnership agreements provide for payments of the deceased partner's capital plus an amount representing the value of the practice in excess of the net tangible assets. The different methods of keeping books and reporting for income tax purposes, whether on the cash or accrual method, will be a factor in deciding the amount of payment in excess of capital account. On the cash basis method of accounting, accounts receivable and work in progress will not be reflected in the capital account. The following two representative provisions illustrate this point:

1. The balance of the capital account on the accrual basis (income tax returns are reported on the cash basis) shall be paid to the estate of the deceased partner, and, in addition, his estate shall continue to share in the profits computed on the accrual basis for a period of five years as an annual participation rate equal to 30 per cent of his profit and loss participation percentage effective at the time of his death.
2. The balance of the capital account (on the cash basis) shall be paid to the estate of a deceased partner plus one year's profit share for each two years' service as a partner or employee, not to exceed five full years of profit participation.

In the first instance, the capital account is comparatively larger because it is computed on the accrual basis. In (2) the profit participation is comparatively greater. In illustration (1), the capital account will include unrealized receivables (as defined in Section 751 of the Internal Revenue Code). Therefore, the two illustrations above do not materially differ in that the greater part of the payments will be taxable to the estate and deductible by the surviving partners for income tax purposes.

Other illustrations of payments to the estate of a deceased partner of his capital account plus an additional value for his practice are shown below:

3. The balance in his capital account on the accrual basis plus a portion of his percentage of profits as follows: first year following death—90 per cent of his share of the profits; each subsequent year the percentage shall be reduced by 10 per cent so that the tenth year following death his estate shall receive 10 per cent of his share of the profits.
4. The capital account (on the accrual basis), and as additional compensation to the deceased partner for services rendered prior to death, to be paid out of distributable profits in the four years following death, an amount equal to 50 per cent of sum of the salary plus the distributable profits of the partnership to which such deceased partner would have been entitled if he had not died, and if his proportion of the salaries and profits had not been altered.
5. The capital account (on the cash basis), and in addition the estate of a deceased partner shall participate in the net earnings (but not in net losses) for a period of five years to the extent of 50 per cent of the last determined percentage of profits. However, the annual maximum amount payable to the estate shall be limited to 50 per cent of the average annual amount earned by the deceased during the three full fiscal years preceding the date of his death.

The above illustrations provide payment of a percentage of future profits. In the following illustration periodic payments to the estate of a deceased partner are fixed by prior years' profits.

6. The balance in his capital account plus an amount equal to the deceased partner's share of the profits for the three years preceding the date of death.

This method has the advantage of payments being fixed in amount, and it still permits payments to be deductible for income tax purposes to the surviving partners under Section 736 of the Internal Revenue Code.

Other agreements base future periodic payments to the estate of a deceased partner on gross fees rather than on an amount based on profits.

7. The interest of the deceased partner in the capital of the business plus participation in the gross renewal fees (subject to their collection) for a five-year period. The basis of participation shall be 20 per cent of such fees times the deceased partner's ownership percentage.

The above provision refers to renewal fees. The following illustrations refer to past fees as the measure of payments. Although the next two examples require periodic payments, it is probable that neither would qualify under Section 736 of the Internal Revenue Code.

8. The surviving partners shall buy in proportion to their interests, and the estate of the deceased partner shall sell the interest of the deceased partner in the partnership for its value as shown below.
   a. The capital account as shown on the books.
   b. The deceased partner's share of the accounts receivable and prepaid items, and his share of work in progress as shown in the net worth statement of the partnership, less his share of accounts payable.
   c. Plus 100 per cent of his interest in the average annual gross billings (adjusted for uncollectible accounts). This average is to be one-third of the gross billings for the preceding thirty-six months.

9. The surviving partners shall purchase the interest of the decedent in the partnership. The purchase price shall be the book value of the physical assets, cash, and receivables, including goodwill at the date of death. The computation of goodwill shall be five-twelfths of the fees earned in the twenty-four months preceding the month in which death occurred.

10. The surviving partner shall pay to the estate of the deceased partner his proportionate share of the value of the entire partnership. The value of the partnership shall consist of:
    a. The value of the accounting practice itself, which shall be measured by the amount of gross receipts for the preceding twelve months.
    b. All other partnership assets shall be valued at book value on the books of the partnership.
    c. The value of the work in process shall be valued at one-twelfth of the gross receipts for the preceding twelve-month period.

The payments due shall be reduced by the proceeds of life insurance carried by the partnership payable to the deceased partner's wife (or children if she predeceases him) and the balance shall be paid in twenty-four monthly installments.

Most agreements provide that payments shall be made to the deceased partner's estate or legal representative. On the other hand, several provide for payments to the widow.

11. No payment is required for capital account or goodwill. Deceased partner's widow will receive one-half of deceased partner's salary as long as she lives, adjusted as follows:

    a. Reduced 5 per cent for each year that the deceased partner lacks twenty years' service as a partner or his widow lacks twenty years of being his wife.

    b. Raised or lowered annually as the cost of living index for the year compares with that at termination of active status.

Special provision is made for goodwill payments in the event of death of the founding partners, and life insurance is carried to meet this obligation.

12. The widow of the deceased partner shall be entitled to receive the balance in his capital account (on the cash basis) plus 25 per cent of the fees earned from the deceased partner's accounts during the three years after the partner's death.

13. The balance in the invested capital account plus the balance in the undrawn profits account (it is understood that goodwill, unrealized increment in assets, or uncollectible accounts receivable shall not be considered as a basis of any distribution to the estate of a deceased partner). In addition, the widow of the deceased partner shall receive for a ten-year period, or until her remarriage, an amount equal to 25 per cent of his average salary allowance during the five years during which such allowance was the highest. For the next five years the widow, if still unmarried, shall receive one-half of the above percentage of salary allowance. Should the widow die during the fifteen-year period, the payments will cease unless there are dependent minor children, in which case the amount required to be paid shall be divided equally among all minor children. As each child reaches twenty-one, total payments will be reduced by his share. In no case, however, shall payment on account of a deceased partner be made for a period exceeding fifteen years.

Use of name

It is provided in some partnership agreements that, in consideration of the payments provided, the remaining partners may continue to use the name of any deceased partner in the partnership name.

Terms of payments

There is considerable variation in the length of time over which payments continue. Participation in profits or salaries is usually paid currently during the period of participation. Payments for capital, goodwill, etc., are paid either monthly, quarterly, or annually over a period of one to five years, or over the profit-participation period. In some instances payments of undrawn profits and capital are made relatively promptly and the remaining payments extend over a number of years. In most instances deferred payments are noninterest bearing; in other instances they bear interest from 4 to 6 per cent a year.

Life insurance

Many partnership agreements provide life insurance to pay the capital account or goodwill or both. Usually the proceeds, if payable to the partnership, are paid promptly to the decedent's representative, and any remainder due is paid in installments.

If the partnership capital account is determined at a date subsequent to the date of death, the partnership agreement should make it clear that no part of the life insurance proceeds will be used to increase the deceased partner's capital account. One agreement states:

> The amount to the credit of the deceased partner's (capital) account (at the end of the year following death) . . . shall be reduced by any amount credited to it representing the excess of proceeds of life insur-

ance on his life over the cash value thereof immediately preceding his death. The balance so determined shall become the liability of the partnership to the personal representative of the deceased partner and shall be paid thereto in the following manner:

1. An amount equal to the life insurance proceeds collected on policies carried on the life of the deceased partner shall be paid . . . forthwith. In the event said proceeds exceed the amount due under Paragraph X (capital account) such excess shall be applied to amounts due under Paragraph Y (profit participation).
2. The remainder of said liability, if any, may be paid (in monthly installments over a four-year period).

Retirement because of age

THERE ARE ANY number of reasons for the withdrawal of a member from a partnership, but this section is concerned with retirement because of age or incapacity, and it is not contemplated that the retiring partner will continue in practice as a certified public accountant.

Some agreements contain a mandatory retirement age and others permit a partner to retire after a certain age or after a designated number of years of service. One agreement provides that a partner *shall* retire at the age of sixty-five. Other agreements provide that a partner may retire and receive full retirement benefits at the age of sixty-five. Other examples of retirement provisions are:

1. A partner shall be entitled to retirement provisions if he has served the partnership for a period of twenty-five years as a principal or employee, or he has reached the age of sixty, or he is permanently incapacitated.
2. A partner shall be entitled to retirement benefits if he retires from the firm and the practice of public accounting simultaneously, having been a certified public accountant for twenty-five years, the period to be computed from the date his certificate was issued by the state board of accountancy.
3. Any partner may irrevocably retire at the end of a fiscal year after twenty-five years of service or at the age of sixty-five, whichever occurs first, but in no case, except by unanimous consent of all partners, at less than fifty-five years of age.
4. A partner may retire with full participation in the profits as pro-

vided for retirement purposes. Prior to age sixty, his participation in provided profits shall be reduced 10 per cent for each year he is under sixty at the time of retirement.

Other partnership agreements have no mention of age or length of service as a condition of retirement, but agreement not to engage in public accounting practice is a condition necessary for the payment for goodwill or for a participation in future profits.

Payments on account of retirement

SIMILAR TO death benefits, retirement benefits provide either for the payment of a portion of future profits, or a fixed amount based on past volume or profits payable over a designated number of years.

Most partnership agreements which were secured through the American Institute questionnaire provide the same benefits payable to a partner retired because of age as to a deceased partner. This is true even in cases where life insurance is carried on partners to provide for death benefits.

Death and incapacity are sometimes sudden and a widow and minor children may be left without means of support. A partner may die when the firm is still young and the remaining partners may not be in a financial position to continue the partnership and make substantial death benefits sufficient to meet the needs of the dependent widow and children. Life insurance and health and accident insurance are, therefore, essential in providing for the contingencies of early death or incapacity.

Retirement, on the other hand, is an event that can be planned far ahead. A partner can make personal plans for his retirement over and above the retirement provisions of his partnership. He may rely on Social Security, his personal assets, his own retirement policies, and he may benefit from his reduced living costs when his children become self-supporting. However, a partner who has served his firm for many years has built up a valuable asset, and his retirement will leave the remaining partners his share of the practice which will provide them with a larger in come. The retiring partner should be adequately paid for the value of his goodwill as well as his interest in the tangible assets.

Even partnerships that have no retirement provisions in their partnership agreements no doubt intend to provide for retirement benefits when the time comes, or an acquisition and disposition of the interest of a partner contemplating retirement. The amount of benefits to be paid will be arrived at by negotiations. It seems more satisfactory to provide for retirement in advance as it will aid the older partners in planning for retirement and provide the younger partners with the incentive to continue with the partnership.

A partner can retire and still be valuable to the partnership. One agreement provides:

1. A retired partner's capital and his share of the partnership income shall be computed and paid as though he had died on the date of retirement. He also shall be entitled to participate in the profits for the ensuing five years in the same manner as provided under the death provisions with the following addition: Following retirement, a general partner shall be paid in addition to other retirement payments a portion of gross fees thereafter collected from new practice attributable to his personal efforts or contacts, such portion to be computed at 20 per cent of such fees received within one year of acquisition, 15 per cent of those received during the second year, 10 per cent of those received during the third year, 5 per cent of those received during the fourth year, and nothing thereafter. New practice is defined as engagements not served by the partnership prior to the date of the retired partner's formal retirement.

A partner may also partially retire and still serve the partnership on a limited or advisory basis. Usually, these provisions are under the classification of partial incapacity. However, they are just as applicable because of age or for other reasons. Because it is impossible to determine in advance and provide in a partnership agreement the extent of service to be performed, the extent of the participation of the partially retiring partner is determined by negotiation and agreement.

2. After continuous service of twenty-five years, any partner may, with the consent of all other partners, remain active in the partnership on a consulting or part-time basis. Should such an agreement be reached, it is hereby expressly agreed that the partner going on such

part-time basis will be present, at the request of the remaining partners, full time during the first three months of each calendar year. The said partner's salary allowance shall be reduced pro rata for the time he is not working, and his share in the profits shall be reduced in the same ratio.

3. A partner may partially retire provided he leaves his capital in the business and provided he does not enter into the practice of public accounting in his own name or as an employee. In such an event, the partner so partially retiring shall continue to serve the partnership in an advisory capacity and be available for consultation or in any limited capacity. In such event, the partners shall agree among themselves in writing as to the salary and share of the profits of such partially retiring partner and as to how such reduction in salary and share in profits, if any, shall affect his interest under paragraph X in the event of his death.

On the other hand, at least one agreement provides that when a partner retires he will be entitled to receive approximately 75 per cent of the applicable death benefits.

Some retirement benefits are in the nature of a lifetime annuity rather than a payment for the practice. One agreement differentiates between a married partner and a single partner.

4. Retirement by age sixty-six or permanent disability:
   a. Married Partner:
      50 per cent of salary plus 50 per cent of average of last three years' profits reduced each year for 10 years by 5 per cent of the profit average but not below 60 per cent of salary. Payments go on as long as the retired partner lives.
   b. Unmarried Partner:
      50 per cent of average of last three years' profits reduced each year for 10 years by 5 per cent of profits average but not below 60 per cent of salary. Payments go on as long as the retired partner lives.

The above payments shall be adjusted for changes in the cost of living index.

The death of a partner during the period of retirement or permanent incapacity will usually present no problem in cases where death and retirement provisions are the same. Payments will continue during the prescribed period. However, in the case of partial retirement and lifetime payments for retirement or incapacity, the partnership agreement should be clear as to how these payments will affect death benefits. One partnership agreement provides for permanent incapacity and death benefits as follows:

5. If a partner shall remain incapacitated for a period in excess of six months, he shall have the following election:
   a. He may partially retire as provided.
   b. He may retire or withdraw as provided.
   c. He may leave his capital in the business and continue to serve the partnership in an advisory capacity, or in a limited capacity to the extent he is able. In such an event, he shall participate in the profits of the partnership to the extent provided in the case of death but without a limitation as to duration. In the event an incapacitated partner who has elected to participate in the profits of the partnership as provided in this subparagraph dies before participating to as great an extent as if he had died on the date he became incapacitated, his estate shall continue to participate to the same extent as though he had died on the date he became incapacitated. The balance of the capital account shall be in accordance with the terms of the death provisions.

Incapacity of a partner

SICKNESS OR accident may incapacitate a partner in varying degrees or length of time; it is, therefore, difficult to define incapacity in a partnership agreement. However, most agreements provide for incapacity and some arbitrarily define it. Agreements that attempt to define incapacity distinguish between permanent and temporary incapacity on the basis of its duration and leave partial incapacity to negotiation when the event occurs.

One partnership agreement defines incapacity as inability to perform agreed and usual duties by reason of illness or accident. Others provide that:

1. If a partner is unable to devote substantially all of his time due to illness or accident. . . .
2. In the event any partner is absent from the office on account of an extended illness. . . .

One agreement provides for total disability, ". . . if the executive committee after consultation with competent medical advisors determine that a partner is totally and irrevocably disabled. . . ." Another simply refers to "legal disability of a partner."

Temporary incapacity

SOME PROVISIONS of partnership agreements relative to temporary incapacity are shown below.

1. Temporary incapacity is defined as incapacity for a period not in excess of twelve months including the first twelve months of any incapacity which becomes permanent. During a period of temporary incapacity neither any partner's division of profits or bonus shall be affected, but no annual or hourly salary shall be paid for any period of incapacity in excess of four months. During the first four months of incapacity, salaries may be reduced up to 25 per cent depending upon the partner classification.

A partnership which provides for salary on the basis of time spent in behalf of the partnership at an hourly rate and for a percentage share in the net profits after salaries provides:

2. The partner shall be entitled to time credit for sick leave of one hundred twenty hours per annum provided, however, such allowance for sick leave may be increased, under special circumstances, by majority vote of the other partners.

Other agreements provide:

3. If a partner is unable to devote substantially all of his time due to illness or incapacity, he shall be entitled to continue to receive his share of the profits for one year. Such ill or incapacitated partner shall continue to receive his salary for a period of six months, provided, however, that during said six-month period his salary shall be reduced by the amount of health and accident insurance benefits which he may be receiving by reason of and during said period of illness or disability (assuming the premiums are paid by the firm). From and after the end of the six-month period, said partner's salary shall be reduced by an amount equal to the salary required to be paid by reason of the hiring of a third person to perform his duties in the partnership. At the end of twelve months, the incapacitated partner may be retired.
4. In case of illness and temporary disability, no diminution of salary or profits shall be made for the fiscal year in which incapacitated. In the next subsequent year, the partner is credited with 75 per cent of what he otherwise would have been entitled to plus 2 per cent for each month of the prior year during which he was not incapacitated. He may be carried for a third year at 50 per cent or retired.

5. In the event any partner is absent from the office on account of extended illness, the following provisions will apply:
   a. During the first six months or portion thereof, he shall be entitled to his full participation in the partnership profits.
   b. For the period of the next six months, he shall participate to the extent of 50 per cent of his normal basis.
   c. During the second year of illness he shall participate in partnership earnings to the extent of 25 per cent of his normal basis.
   d. If, at the end of a two-year period of illness, the partner is unable to return to active duty, the remaining partners may acquire his interest (on the same basis as in the case of the death of a partner except that the total amount due to the incapacitated partner shall be reduced by the amount paid to him by the partnership subsequent to the beginning date of his illness).
6. In the event of sickness or permanent incapacity of any partner continuing for a full period of one year, such partner shall receive his annual salary and share of the profits for that year only. In the event the sickness or incapacity continues in excess of one year, he shall receive for the next ensuing two years 25 per cent of his salary and his respective share in the net profits. In the event the sickness or incapacity continues in excess of three years, such partner shall receive his share of the profits only.
7. The length of sick leave without interruption of earnings shall be determined on a case-by-case basis, by majority vote of all partners.
8. Should any partner become incapacitated because of accident, illness, either physical or mental, or for any other reason, he shall continue to participate in the partnership salary and profits without reduction for six months.

Permanent incapacity

Illness and incapacity are in many instances progressive, and there is no clear-cut point of time when illness ceases to be temporary and becomes permanent. For that reason permanent incapacity is usually considered incapacity for a length of time in excess of that provided for temporary incapacity. Some partnerships provide for benefits to permanently incapacitated partners for long periods of time or for life. The decision is usually based on the personal relationship of the partners or as a means of cross insurance without relationship to the value of the partnership interests. Accident and health insurance should be able to provide some relief for the remaining partners in making payments to an incapacitated partner.

Usually, in the event of permanent incapacity, the incapacitated partner is required to retire under the same terms provided for retirement because of age or upon a settlement with the incapacitated partner in the same manner as if he had died.

Liability of partners

PAYMENTS DUE under death, or retirement provisions, no doubt become the individual liabilities of the remaining partners. Some agreements provide this in writing. See the following illustrations:

1. If a sale or merger of a part or all of the partnership created by this agreement should take place, or if the partnership is dissolved, all provisions contained herein relative to retirement or death benefits shall become the individual liabilities of the remaining partners severally and individually, who are parties hereto at the time of said sale, merger, or dissolution.
2. The retirement of any member shall not relieve him of his personal obligation due any member of the firm or any member who has retired or dies prior to the date of his retirement.
3. If the surviving partners terminate the partnership before the expiration of the four-year period following the end of the fiscal year in which a partner dies, the postdeath share of the earnings of the estate of a deceased partner as herein provided shall be paid in full out of the liquidating proceeds of the partnership before any sum shall be paid the surviving partners, and the earnings distributable to the estate of a deceased partner for the balance of the four-year period shall be computed on the basis of the average annual net earnings of the partnership for the two fiscal years preceding the date of death.

APPENDIX B

EMERGENCY PROFESSIONAL ASSISTANCE PLAN

Preface

THE FOLLOWING EMERGENCY professional assistance plan is offered only as a guide to state societies and chapters of state societies in formulating their own individual plans. Accordingly, such plan should not be considered the official position of the American Institute of Certified Public Accountants.

The major purposes of such a plan should be to establish a well formulated procedure to assure that the practice of a deceased or disabled practitioner is transferred or serviced by another practitioner or firm for the protection of the clients, and to aid, advise and to render services to the estate of a deceased practitioner, to a disabled practitioner or to a practitioner on leave of absence.

It should be pointed out, however, that such a plan is only an *emergency* one to operate in cases where the practitioner has not made specific plans to take care of his own individual situation.

EMERGENCY PROFESSIONAL ASSISTANCE PLAN "A" OF THE (NAME) STATE SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS

Article 1: Name

It shall be known as the Emergency Professional Assistance Plan of the (Name) State Society of Certified Public Accountants.

Article 2: Purpose

The purposes of the Plan are (1) to establish a well formulated procedure to assure that the practice of a deceased or disabled practitioner is transferred or serviced by another practitioner or firm for the protection of the clients; and (2) to aid, advise and to render services to:

A. The estate of a deceased practitioner who has not designated a certified public accountant to carry on or who has not made arrangements for disposing of his practice upon his demise.

B. A practitioner who, through illness or other causes, becomes disabled to the extent that he cannot give service to his clients and is unable to continue his practice.

Article 3: Definitions

Unless the context hereof requires a different meaning, the following words and phrases shall have the meanings set forth below:

A. "Plan" means this Emergency Professional Assistance Plan and any subsequent amendments hereto.

B. "Society" means the (Name) State Society of Certified Public Accountants or Chapter of the (Name) State Society of Certified Public Accountants.

C. "Committee" means the State Society or Chapter Committee on Emergency Professional Assistance.

D. "Participant" means a member of the society or chapter, who has filed an application with the society or chapter, indicating a desire to participate in the operation of the plan.

E. "Practitioner" means a member of the (Name) State Society of Certified Public Accountants who is engaged in the practice of public accounting as an individual or as a partner.

F. "Successor" means a participant designated by clients, or otherwise, to absorb the practice, or a portion thereof, of a deceased practitioner, and if more than one successor is designated, the singular form of the word includes the plural.

G. "Representative" means the executor or administrator of the estate of a deceased practitioner, and, if more than one is appointed, the singular form of the word includes the plural. If none is appointed, or if it is advisable to consult, or transact business with the widow or next of kin of decedent prior to appointment, the terms shall also include widow or next of kin or both.

H. "Administrator" means a participant designated by a disabled practitioner, or otherwise, to continue the practice during the period of disability.

Article 4: Organization

The Committee shall consist of nine or more members who shall be appointed as provided in the by-laws of the society. Each member of the Committee shall be appointed for a term of three years, except that upon the organization of a committee, one-third of such members shall be appointed for a one year term, one-third of such members shall be appointed for a two year term, and the remaining one-third shall be appointed for a three year term. The chairman of the Committee shall serve as liaison between the Committee and the Board of Directors of the society. The Committee shall elect from its members, a chairman, vice-chairman, and secretary.

The state society committee and chapter committees shall inaugurate an educational campaign to acquaint the members of the society of the necessity of providing for an emergency.

Chapter committees shall be organized on the same basis as the state committee.[1]

The Committee shall designate the address at which its records shall be maintained and to which communications by estate representatives, practitioners and participants shall be addressed.

Article 5: Participation

Participation is open to all members including accounting firms with which said members are associated. To obtain participation in the Plan, members shall make application to the Committee (Form "A").

Article 6: Basic Plan

A. In the event of a practitioner's death (without his having provided for the disposition of his practice), the Committee shall offer its services to the estate representative, in connection with the transfer of the decedent's practice among the participants, so as to assist the widow or heirs in obtaining an economic benefit from the practice.

[1] Because of varying conditions in some chapter areas, it is recognized that uniformity of chapter and state society plans may not be desirable.

B. If it appears that a practitioner's disability will not exceed six months, the Committee shall offer its assistance in arranging for the continuation of his practice to the end that:
   1. Professional service will be rendered the disabled practitioner's clients during the period of disability.
   2. The practice of the disabled practitioner will be preserved during said period of disability and returned to him upon his recovery.

C. In the event of a practitioner's disability for a period that may exceed six months, the Committee shall offer its services in arranging for the continuation of his practice for a period not to exceed six months. During said period of six months, the Committee shall recommend to the disabled practitioner or his representative that the practice be transferred to a successor and shall offer to assist in the transfer, provided the practitioner agrees.

Article 7: Procedure in the Event of Death

In the event of death of a practitioner, it is of utmost importance to the widow or heirs that steps be taken immediately so that economic benefits may be obtained. Time is of the essence and the importance of this factor cannot be overemphasized.

A. Upon the death of a practitioner, the chairman of the Committee shall appoint one or more of its members to confer with the representative and offer the Committee's services in disposing of the decedent's practice. If such committee members and decedent's representatives agree that the Committee shall act for the decedent's estate in disposing of his practice, the Committee shall obtain from the representative written authority to act for the estate (Form "B") and the names and addresses of decedent's clients. The Committee shall arrange for the representative to send a letter (Form "C") to the decedent's clients, advising them that the Committee has been authorized to act for the estate, stating the names and addresses of the participants who will be available to furnish accounting services to them, and requesting each of them to select a participant (successor) to perform accounting services and notify the Committee of their selection. Such notification (Form "D") will authorize the representative and the Committee to distribute to the successor designated the work papers belonging to the deceased practitioner.

B. The Committee, on behalf of the representative, shall distribute the books and records and all the working papers of the decedent relating to such clients transferred to the successor and shall obtain a receipt from him (Form "E").

C. The Committee shall supervise the establishment and maintenance of suitable records of decedent's practice, showing the accounts receivable and unbilled charges at the time of the decedent's death, the name of each successor and the client to which he has been assigned, the amount collected by each successor whether for work done prior to decedent's death or thereafter, and other pertinent data.

D. Each successor shall make at least quarterly reports to the Committee. The Committee, in turn, shall furnish a report to the representative, showing the amount of services billed by the successor and the amount collected.

Each successor, upon taking over a client, will agree to pay to the widow or the estate the agreed percentage of the fees he receives for his services to that client over the period stipulated in the agreement. The amount payable shall be remitted to the representative quarterly (Form "L").

The decedent's work in process and his completed work unbilled at the time of his death shall be invoiced by the successor with the representative's approval and, upon collection, shall be remitted in full to the representative. In the case of advance billing, such advance shall be taken into account in determining the amount due to the representative.

Each successor shall endeavor to see to it that any fees due and outstanding from clients transferred to him will be paid to the representative.

The Committee may assist the representative in disposing of the office furniture and equipment for the benefit of the decedent's estate.

Article 8: Procedure in Event of Disability of Practitioner

In the event of disability of a practitioner, the Committee will co-operate with and advise him or his duly authorized representative, as to the continuation of the practice during the period of disability.

The Committee will assign one of its members to represent it, to discuss with the disabled practitioner or his authorized representative the amount of assistance required and the rate of compensation to be paid to assisting participants (administrators). The Committee's representative will record the necessary data thus obtained and shall then make a *brief* written report to the Committee. This report will outline the problems involved, indicate recommendations and suggestions, and state whether the disabled practitioner agrees in whole or in part with the report, and the points of disagreement, if any (Form "F").

The Committee will then endeavor to obtain the necessary assistance for the practitioner by contacting persons on the roster, who would be requested to render the necessary assistance at the compensation rate agreed upon by the Committee (Forms "G" and "H"). The administrator would then contact the client or clients of the disabled practitioner, to determine if they are agreeable to the proposed substitution, and would render the services required in the name of the disabled practitioner (Form "I").

The administrator shall take over the books and records pertaining to the practice of the disabled practitioner and assume supervision of the work program. He shall see to it that all billings for services to the accounts are made on the billheads of the disabled practitioner and that fees are regularly collected and deposited in the practitioner's bank account. He shall assume any other duties consistent with maintaining the practice of the disabled practitioner and see to it that the services to be rendered are made in a timely and efficient manner.

The administrator shall retain the books, records, and all other effects pertaining to the practice until such time as the disabled practitioner, having returned to good health, calls for them or until the Committee sees fit to request the return of such books and files when, in its judgment, it deems it to be necessary or advisable.

Upon the recovery of the disabled practitioner, the administrator shall see to it that all books, files, records and other effects pertaining to his practice are returned. After the administrator is duly compensated, at the compensation rate agreed upon by the Committee, he shall be relieved of any further responsibilities.

Any assistance which is furnished through the Committee will be under agreement so that the administrator will not render services to clients of a recovered practitioner for a period of two years after the end of such assistance, unless, in the event of the disabled practitioner's death, the administrator is selected under terms of Article 7, page 69.

Article 9: Settlement of Disputes

In the event of a dispute of any nature arising under the operation of the Plan, including, but not limited to, a disagreement over the remittance to be made by a successor to the estate representative, or by an administrator to the disabled practitioner or his duly authorized representative, the Committee shall have complete and exclusive jurisdiction to arbitrate and determine such dispute. Its decision shall be final and binding on all parties. A meeting held for such purpose shall be attended by at least a majority of the members of the Committee, and a decision with respect to the issue involved must represent the majority view of the members of the Committee in attendance at such meeting.

Article 10: Promulgation and Amendment of Rules

The Committee may promulgate new rules for the operation of the Plan and amend, in its sole discretion, any rules previously adopted. A meeting held for such purpose shall be attended by at least a majority of the members of the Committee and such new or amended rules shall represent the majority view of the members of the Committee in attendance at such meeting. All participants will be notified and shall be bound by such new or amended rules.

Article 11: Release from Liability

In no event shall the (Name) State Society, Chapter, Committee or any members, agents or employees of (Name) State Society, Chapter, or Committee be liable for any acts taken or omissions occurring in connection with the operation and administration of the Plan.

FORM "A"

Application for Listing

To: (Name) State Society Chapter Committee on Emergency Professional Assistance

From: ______________________________ (Applicant)

Located at ______________________________

____

1. Applicant hereby requests that he (it) be listed by Committee as a participant in Plan administered by Committee relating to (1) the distribution of the accounting practice of a deceased practitioner, or (2) the continuation of the practice of a disabled practitioner, or (3) both. In consideration for such listing, applicant agrees that so long as he (it) is so listed, he (it) will:
   A. Abide by all rules and any amendments thereof promulgated by Committee and distributed to said participants.
   B. Exert his (its) best efforts toward the successful operation of the Plan, and

2. It is understood that:
   A. In no event shall (Name) State Society, Chapter, Committee or any members, agents or employees of (Name) State Society, Chapter or Committee be liable for any acts taken or omissions occurring in connection with the operation and administration of the Plan.
   B. Applicants, upon written notice to Committee, may withdraw from participation in the Plan at any time.
   C. Applicant has examined a copy of the current effective rules of the Committee.

____
Signature of Applicant

FORM "B"

Agreement with Estate Representative

To: The Emergency Professional Assistance Committee of (Name) State Society of Certified Public Accountants:

You are hereby authorized to act, in behalf of the estate of
CPA (deceased),
____

of____

____

in the transfer of decedent's practice, pursuant to the procedure set forth in the Emergency Professional Assistance Plan, a copy of which has been received by the undersigned, who understands and hereby agrees to all of the terms and conditions thereof.

It is understood that I (we),____________________ who am (are)______________ of the deceased, am (are) to receive____% for a period of_____years of the fees received from the practice, as per a complete list of clients and fees annexed hereto (Form B-1). However, the total consideration shall not exceed____% of the amounts shown for each client on the annexed list.

It is understood that each client shall have the right to select any CPA of his choosing.

The Committee shall have the right to take over all files, books and records pertaining to the above practice and to take whatever steps it deems necessary or advisable in the notification or interviewing of the clients.

Date____________________ Signed____________________

Title____________________

For the Committee

____

FORM "B-1"

List of Clients

Name	*Fees*	*Maximum Economic Benefit Amount*
	$	$

FORM "C"

Letter to Clients

(Name and Address of Client)

Dear_________________:

As the legal representative of ____________________________, CPA, deceased, I am writing to advise you that the Committee on Emergency Professional Assistance of the (Name) State Society of Certified Public Accountants has offered its services to assist you in making arrangements for the continuation of the professional services formerly rendered without any undue hardship or interruption to your requirements.

I am enclosing a list of certified public accountants, members of the (Name) State Society of Certified Public Accountants, selected by the Committee who have agreed to continue this work, with your consent. The Certified Public Accountants on this list have been carefully selected to provide you with the names of those who would be most competent and reliable for your type of work. Of course, you are not obligated to select any of those listed, but if you plan to engage the services of a certified public accountant, your choice of one of those on the attached list will facilitate the orderly disposition of the estate and provide you with continued professional accounting services.

Enclosed is a form [Form "D"] which you may use in advising the Committee of your choice, and authorizing the estate to turn over to the person or firm named by you, any of your records and the work papers belonging to the decedent which he had in his possession. Should you desire to personally interview any one or more of the listed CPAs, please feel free to make your requests known on the enclosed form.

Sincerely yours,

____
Legal Representative

FORM "D"

Selection of Successor by Client

To: The Emergency Professional Assistance Committee of (Name) State Society of Certified Public Accountants and to the Estate of__________, CPA, deceased:

The undersigned selects_____________________, CPA, to continue the professional services formerly rendered by_________, CPA, deceased and authorizes delivery to the person named any of our records and work papers relating to our account in possession of the estate of the deceased.

____

Name of Client

Date_____________ By____________________________________

FORM "E"

Receipt from Successor for Records

Received from the representative of the estate of____________
(Name of

__________________________, __________________________
Deceased CPA) (Address)

____

the following working papers and other documents for the purpose of rendering professional services to__________________
(Name of Client)

Documents

________________________________, CPA

Date_______________

FORM "F"

Authorization by Disabled Practitioner to Act on His Behalf

To: The Emergency Professional Assistance Committee of the (Name) State Society of Certified Public Accountants:

In the Matter of Temporarily Assuming the Practice of:

CPA ______________________________

Address ______________________________

Who is incapacitated and unable to perform any professional services, and for the purpose of preserving such practice for his benefit.

Your Committee or certified public accountants designated by it are hereby authorized to act in behalf of all clients, as per Form "B-1" hereto annexed, and to use my (his) office, staff, files, books, stationery and equipment for that purpose.

The certified public accountants designated shall utilize the services of the disabled practitioner's staff as far as possible for performing any services pertinent to the practice.

A working fund shall be provided by the disabled practitioner to meet operating expenses prior to the collection of fees. The certified public accountants designated shall bill and collect fees in the usual manner and are authorized to deposit funds in my (his) bank and to draw checks, countersigned by__________, in my (his) stead.

The certified public accountants designated are to be compensated for their work in amounts not to exceed____% of fees billed and collected.

Signed____________________

Date______________ By____________________

________________Witness

Note: Power of attorney is to accompany this form when applicable. (It is suggested that a practitioner execute a power of attorney designating a legal representative in event of his incapacity.)

FORM "G"

Agreement with Administrator for Temporary Assistance to Disabled Practitioner

To: The Emergency Professional Assistance Committee of the (Name) State Society of Certified Public Accountants:

I, ______________________________ of ____________________

____, agree to render timely and necessary professional service to:

on behalf of ____________________, CPA, who is incapacitated, until such time as he is able to resume professional services to these clients within the time limits set by the state society's Emergency Professional Assistance Plan, or until I am requested by the Committee to cease rendering such services to these clients, or upon forty-five days' notice that I plan to withdraw. I understand that I am to give these clients the usual good attention and I will be guided by the wishes of my colleagues and the code of ethics of the state society. I shall accept payment of ___% of the fees charged for the professional services performed by me.

Signed ____________________

Date ____________________

FORM "H"

Receipt for Records

To: The Emergency Professional Assistance Committee of the (Name) State Society of Certified Public Accountants:

Received from ______________________________ CPA

____

____

the following records in connection with my temporary handling of the professional service of ______________________ client:

It is understood that I shall return these records to the above CPA, with whatever additional data I may compile, upon his request or the request of the Committee.

______________________ CPA

Date______________________

FORM "I"

Letter to Client from Disabled Practitioner
(disabled practitioner's letterhead)

Date________________________

Dear Client:

This will advise you that I have been taken ill (or hospitalized) and regret I am unable to render my usual professional services to you for the present.

Until such time as I am able to resume my practice, the area Committee on Emergency Professional Assistance, of the (Name) State Society of Certified Public Accountants, has arranged with Mr.________________________ CPA to render professional services to you during my illness.

Please extend to him the confidence and courtesy granted me and be assured of his wholehearted interest to serve you.

I extend my appreciation for your kind co-operation during this period, and I look forward to serving you again in the near future.

Sincerely yours,

P.S. Should you desire further information, please communicate with the Chairman of the Committee at the following address:

____

____

____

FORM "J"

Suggested Memorandum to Secretary and Family

The finest machinery which your state society or local chapter can provide to assist in the transfer of your practice at your death will be valueless unless someone in your family has knowledge that such assistance is available.

It is suggested, therefore, that copies of a simple memorandum be given to your secretary, or your family, and be filed with your will. The memorandum might read as follows:

> Inasmuch as I have no partners and have not made any arrangement for the transfer of my practice at my death, I request that Mr.____________________, Attorney for my estate, communicate immediately with the Emergency Professional Assistance Committee of the (Name) State Society of Certified Public Accountants, which Committee may be called upon for assistance in such matters. Experience has shown that delay in effecting transfers is costly because professional practices disintegrate rapidly when clients do not know that a transfer is imminent. There is also an adverse effect on the value and the amount which may be realized from a delayed transfer.

The request for advisory assistance should be addressed to

Chairman, Committee on Emergency Professional Assistance

Address (Name) State Society of Certified Public Accountants

____

Telephone (of State Society Office)

Signed ____________________

Date_______________

FORM "K"

Follow-up Letter to New Members Regarding Plan

Letter Mailed to *New* Members of the (Name) Chapter of the (Name) State Society of Certified Public Accountants.

Date________________________

Mr. ____________________________

____

____

Dear Sir:

I have been informed that your name has been added to the roster of the membership in the (Name) Chapter of the (Name) State Society of Certified Public Accountants.

Enclosed is a copy of the Emergency Professional Assistance Plan, which has been in effect for a number of years, having been adopted by your Chapter in ________________.

The purpose of this Plan is to provide assistance on behalf of the estate of a deceased member where prior arrangements have not been established for the disposition of a practice, or to provide assistance in maintaining the practice of a disabled member.

This Committee has already functioned.

It is hoped that this Committee will have a long delay before it has to function again.

It is suggested that the existence of this Plan be disclosed to your wife, next of kin or secretary, so that someone will know that such a Plan exists.

On behalf of the Committee,

____

Chairman

FORM "L"

Remittance Form

(Name) State Society of Certified Public Accountants
Emergency Professional Assistance Committee

Remittance Advice

Date____________________

CPA__________________________

Address ________________________

____

Enclosed is a check for $_____, in payment of agreed percentage of fees received by me, for____months ended____, 19____, as follows:

Client	*Col. 1 Maximum Economic Benefit Projected*	*Col. 2 Economic Benefit Previously Remitted*	*Col. 3 Fees Rec'd. This Period Ended / /19—*	*Col. 4 Current Quarter Economic Benefit**

Total Enclosed $______

* Lesser of _____% of Column 3 or balance necessary for Columns 2 and 4 to reach maximum in Column 1.

Signed ________________________
Successor CPA

cc: Committee

FORM "M"

Reminder from Committee When No Report Is Received from Participants

(Name) State Society of Certified Public Accountants
Emergency Professional Assistance Committee

Date ____________________

To:

______________________________ CPA

____

____

Account of practice of ____________________, CPA

The Committee hereby advises you that it has not received a report on the above named disabled (or deceased) member, as agreed to by you.

Client	*Maximum Economic Benefit Projected*

Please submit your report not later than ____________________
Date

Signed ____________________
Committee Chairman

cc: Representative

EMERGENCY PROFESSIONAL ASSISTANCE PLAN "B" OF THE (NAME) STATE SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS

(In Event of Leave of Absence in Connection With the National Defense Effort)

Basic Plan

In the event of a practitioner being called into active service with the Armed Forces or the National Defense effort of the United States, the Committee shall offer its services in arranging for the continuation of his practice for the duration of the emergency (as defined by the President of the United States and/or the rules and regulations of the branch of service involved).

PROCEDURE IN EVENT OF LEAVE OF A PRACTITIONER BECAUSE OF DUTY WITH NATIONAL DEFENSE EFFORT

1. The Committee will co-operate with and advise the practitioner, or his duly authorized representative, as to the continuation of his practice during the period of the emergency.
2. Rate of compensation to be paid to the assisting participants (administrators) shall be agreed upon.
3. The Committee will then endeavor to obtain necessary assistance for the practitioner by contacting persons on the roster. (Form "A" shall be signed.)
4. The practitioner shall visit each of his clients and explain his predicament and that certain CPAs have offered to render professional services. The client's choice of a CPA and author-

ization to turn the books and records over to him shall be filled out on the Form "C" provided and signed by the client.

If time does not permit, a letter (Form "B") shall be sent by the practitioner, on his letterhead, to all his clients explaining his predicament and that one of the list of men (in 3) will render professional service during his tour of duty and requesting signed authorization (Form "C") to turn over work papers to the CPA selected.

The client shall be given a choice from the list in lieu of having a CPA assigned to serve him.

5. The administrator shall take over the books and records pertaining to the assigned part of the practice of the practitioner and assume supervision of the administration of those accounts in a manner that will render timely and efficient service to the client. He shall make all billings for services to the accounts on his own billheads and shall collect all fees regularly.
6. The administrator shall retain the books, records and all other effects pertaining to the practice until such time as the practitioner returns from the service.

FORM "ND-A"

Agreement

I, ____________________, CPA, of ______________________, agree to render timely and necessary professional services to any clients of ____________________, CPA, which are turned over to me during the period of his absence.

I understand that I am to give these clients the usual good attention and I will be guided by the wishes of my colleagues and the code of ethics of the state society. I shall accept payment of ____% of the fees charged for the professional services performed by me.

Within 30 days of the return of ____________________, CPA, to active practice of his profession, I agree to return all records and work papers relating to clients taken over by me under this agreement to ______________________, CPA, and assist in every way possible for an orderly transfer of such practice to his office.

Furthermore, I also agree to withdraw from any professional services to clients of ________________________, CPA, taken over by me under this agreement for a period of two years following his return from military service.

______________________, CPA

Date______________________

FORM "ND-B"

Letter to Client Upon Leaving
(on practitioner's letterhead)

Date____________________

Dear Client:

This will advise you that I have been called into active service with the armed forces and regret I am unable to render my usual professional services to you for the present.

Until such time as I am able to resume my practice, I have arranged with the following certified public accountants to render professional services to you during my leave of absence:

____________________, CPA,____________________

____________________, CPA,____________________

____________________, CPA,____________________

Please extend to the one you select the confidence and courtesy granted me and be assured of his wholehearted interest to serve you.

If you will complete the form attached indicating your selection of my successor, it will be greatly appreciated.

I extend my appreciation for your kind co-operation during the period I am away, and look forward to serving you again upon my return.

Sincerely yours,

FORM "ND-C"

Selection of Successor by Client

To:_________________________, CPA

The undersigned selects_________________________, CPA, to continue the professional services formerly rendered by you and authorizes delivery to the person named any of our records and work papers relating to our account in your possession.

____
Name of Client

By________________________

Date_________________________

FORM "ND-D"

Letter to Client Upon Return
(on practitioner's letterhead)

Date________________________

Dear Client:

This will advise you that I have returned from active duty with the armed forces and have resumed the practice of my profession.

If you so desire, I will be able to render my usual professional services to you which have been rendered by____________________, CPA, during my absence.

I want to take this opportunity to thank you for your confidence and courtesies extended to Mr.________________________and I look forward to serving you again.

Sincerely yours,

Note: The method of notifying client upon the return of a practitioner from service in connection with the National Defense effort may take several forms. In those instances where it is appropriate to use a written communication, the above letter may serve as a guide.