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# the WOMAN CPA

THE DISTURBED SOCIETY  
AND OUR PROFESSION

By David F. Linowes, CPA

THE CAREER WOMAN AND  
THE TAX REFORM ACT OF 1969

By Patricia C. Elliott, CPA

## DEPARTMENTS

- *Editor's Notes*
- *Theory and Practice*
- *Tax Forum*
- *Reviews*

JANUARY 1971

**Official publication of the American Woman's Society of Certified Public Accountants and the American Society of Women Accountants.**

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Editor's Notes  
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Tax Forum  
Reviews

## EDITORIAL STAFF

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Touche Ross & Co.  
1380 First National Building  
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*Page*

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JANUARY 1971

## MAJOR ARTICLES

### THE DISTURBED SOCIETY AND OUR PROFESSION

David F. Linowes, CPA

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"School systems profess to teach our children reading, writing, and arithmetic, but all too often they do not."

"Economic and social realities in urban areas no longer fit within the prescribed antiquated local government organizations . . ."

"If we can thereby pull together all that is now known to fight pollution, we will have made a major contribution . . ."

### THE CAREER WOMAN AND THE TAX REFORM ACT OF 1969

Patricia C. Elliott, CPA

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"Or, in words, the tax law rewards bachelorhood and punishes marriage."

"Working wives are thus in the rather incongruous position of being protected by the federal government from pay discrimination and of being penalized by that very same government's tax structure."

# EDITOR'S NOTES

## A NEW YEAR

It's a new year, and with the new year comes a new volume in the life of this magazine. This editor feels extremely fortunate to have the continued support of Ula Motekat, CPA, Associate Editor; Eileen Corcoran, CPA, who writes the excellent Theory and Practice column; Anne Snodgrass, CPA, Editor of the Tax Forum; and Marie Dubke, CPA, who has the responsibility for the Reviews section.

The Presidents of the two organizations who publish this magazine have appointed the following three new members to the Editorial Board:

Karen S. Champlin, CPA, who is a Supervisor in the tax department of the Minneapolis office of Touche Ross & Co.

Louisa E. Davis, an Agent and Conferee in the Technical Branch, Indianapolis District of the Internal Revenue Service.

Mary F. Williams, CPA, a Principal in the tax department of the Houston office of Arthur Young & Company.

We are pleased to have such capable women accept this challenging and rewarding experience.

Retiring from the Editorial Board are Anne Hamilton, CPA; Esther Migdal, CPA; and Edith Reinhardt. To them go the thanks of all readers of this magazine; they have contributed greatly to its stature.

## IN THIS ISSUE

One of the speakers at the Joint Annual Meeting of ASWA and AWS CPA in September 1970 made a most forceful challenge to those present to use their talents as accountants to attempt to solve some of the great problems of the day—problems such as the disillusionment of citizens with their government and with public institutions. "The Disturbed Society and Our Profession," starting on page 5, has been adapted from that speech.

The Tax Reform Act of 1969 gets double coverage this month. Beginning on page 9, Patricia Elliott looks at the tax rates as they relate to women and doesn't like what she sees! In the Tax Forum, Anne Snodgrass discusses the many complex provisions of the Act as it relates to private foundations—and apparently there will be many private foundations in our own personal business lives. We believe this is *must* reading for all accountants.

## HOW TIMES CHANGE?

Two items in the February 1946 issue of this magazine seem delightful in light of today's world—the Tax News (1946's version of the Tax Forum) discusses "1946 Tax Reduction Law—Revenue Act of 1945" and begins "The new Revenue Act effective on incomes received after January 1, 1946 brings the first reduction in taxes since taxes began increasing in 1932." The last paragraph is also interesting in light of Miss Elliott's article—"It is evident from the reductions listed for individuals and corporations that individual tax payers will carry the heavier part of postwar income tax burden."

An article by Thomas W. Byrne, CPA, entitled "Right Dress" decries the sloppy working apparel of the 1946 accountant with such phrases as ". . . the long-haired men and short-haired women one now sees . . . , slacks accentuating positive bulges in the wrong places, . . ."; "He should avoid gaudy attire . . ."; ". . . office and other employees reporting for duty arrayed for hikes, the tennis court, and other types of recreation." It could almost have been written today!—one wonders how Mr. Byrne might feel about today's young men accountants with long hair, beards, sideburns, flaming shirts and ties or the young women accountants in minis, pant suits, and or midis and boots!

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**"Accountants, whose work involves meticulous accuracy, should carry that urge for accuracy over into their use of the spoken and written word. With their fine flair for taking pains they should write and speak superlatively well."**

Jennie M. Palen, CPA

# THE DISTURBED SOCIETY AND OUR PROFESSION

*An accountant with an impressive record of active concern for and involvement in the affairs of society discusses some of today's most complex and challenging problems and suggests ways that accountants can act to resolve the dilemmas.*

David F. Linowes, CPA  
New York, New York

There is an ancient Chinese curse which in effect says, "may you live in interesting times." If one believes in reincarnation, he would swear that every enemy of those ancient Chinese was reborn in the 1960s and 70s.

Certainly, these times are more than "interesting." They are the most crucial and perilous times for mankind since it was threatened with total extinction by the Biblical flood.

## The Role of Women

They are also among the most significant, poignant and opportune times in history. Today many women have decided—and with good reason—that obtaining the vote fifty years ago and the progress they have made since then have not been enough. The struggle for equal opportunity for women—as we have seen in the past year—is accelerating. I predict that the rate of acceleration will increase.

But the success women have achieved to date, regardless of how anyone interprets it, has unquestionably placed the American women in business and industry at a crossroad. They can continue on the road they have been following in furthering their own careers, or they can take a fork in the road—I would call it the *right* fork—in capitalizing on their rising stature in business, industry and government to involve themselves meaningfully in the social problems of our times.

Despite the militancy which has come to the surface recently, many working women have for many years been quietly and deter-

minedly strengthening their positions through their abilities and expertise as well as their special insights and the other qualities which are unique to the feminine personality. The structure and the influence of the American Woman's Society of Certified Public Accountants and the American Society of Women Accountants confirm the degree of accomplishment that determined women have achieved. These organizations have helped to take the woman in business off the pedestal and put her squarely on her feet beside the men who are her professional partners. Women accountants have made a most meaningful contribution to the cause of equal opportunity for women because they have demonstrated that sex is no barrier to competence, sound judgment, professionalism and responsibility.

These talents should not be confined to business practice alone for they are critically needed in the public sphere. Indeed, women accountants have a special input to make to society today for they are in a key position to lead the way for new opportunities for all people. The special qualities and qualifications of women which are showing up more and more each day in the business world should now be devoted to help alleviate, if not solve, many of the major problems which make today's society so excessively "interesting."

This challenge goes to women accountants not as women and not even as business women, but as very special individuals whose training and experience can be put to work for the benefit of society as we would want it to be.

**DAVID F. LINOWES, CPA**, is National Partner of Laventhol Krekstein Horwath & Horwath. He is also Adjunct Professor of Management at New York University and the author of "Managing Growth Through Acquisition."

In 1970 Mr. Linowes was a member of a State Department mission to India to advise on economic management problems. In the late 1960s he undertook a mission for the United Nations Industrial Development Organization in Pakistan, Iran, and Turkey to assist those countries with their economic development programs and also headed a mission to Turkey, sponsored by the United States State Department and the Turkish Management Association, to assist that country with its economic development program through the establishment of an accounting profession and the improvement of management standards.

Mr. Linowes is a former Vice President of AICPA and is serving now as Vice Chairman of the Institute's Trial Board. He is also Chairman of the Professional Advisory Board to the Department of Accounting, University of Illinois (his alma mater) and Chairman of the National Council, U.S. Peoples Organization for the United Nations.



### The Accountant and Public Service

Every profession worthy of the name has a common attribute—the concept of public service. This concept is two pronged: to perform the function of the particular discipline well so that society may engage its services with confidence; and to assume a fair share of responsibility for alleviating society's problems—to “give a damn” about our fellow man, our environment and the future.

Recently, perhaps the most penetrating observer of our time, Dr. John W. Gardner, warned of “the danger of creeping disaster that overtakes a society which little by little loses a commanding grip on its problems and its future.”

We do have creeping disaster—strikes, campus riots, construction worker gangs, draft dodgers, murderers, drug users. Our pluralistic society which once was our great strength and pride is pulling apart at the seams, with group pitted against group. Viet Nam and Cambodia are ripping apart the fabric of American democracy.

By training and by practice, accountants, as consultants to management, help solve problems. We are well qualified to find answers and solutions and to design systems to aid and strengthen businesses. These same talents, employed through our organizations with their dynamism and authority, can play key roles in supporting and protecting our democratic institutions. We must not continue to shield ourselves in neutrality; we must involve ourselves wherever involvement is needed.

Such involvement requires that we speak out with dignity and force, that we take public stands on vital issues of the day—especially in those matters in which we are uniquely qualified.

The most casual reading of newspaper headlines will show that there is no dearth of issues which can involve us, and one of the most crucial is the much-discussed but little understood area of ecology.

As accountants, we are almost wholly oriented toward private property. Our past close association with business has given us common interests with those who are responsible for privately owned property. As a result, we have tended to ignore property which falls in the public domain. One of the major causes of pollution in our society is that people do not accept responsibility for things they do not own directly. No one directly owns the air, the water, the wilderness, and therefore these priceless resources are thoughtlessly polluted and destroyed.

In many ways, accounting epitomizes the

Establishment. We give credibility to what vested interests report and say. In the eyes of restless young people, we are the protectors and defenders of the status quo because the nature of our calling is to examine the past, attest to the credibility of its reports, and then help guide established institutions to plan, based on traditional measurement standards.

Who better than we can show the “now” generation that we care—that we also are restless for constructive change.

### Changes in Today's Organizations

However, computerization has accelerated change at a rate that would have been incomprehensible a few decades ago. Institutions which were created and developed during slower-paced times cannot keep pace and are breaking down. Foremost among the casualties are organizations as we have known them in the 19th Century and early 20th Century.

In talking about business structures, John Diebold makes the point, “Today's business organization structure is a legacy of the first Industrial Revolution . . . We are in a position to build information systems that transcend the compartmentalized structure of business organization. Much of the difficulty experienced in putting these new tools to work in recent years results from the fact that their use clashes with our fundamental organization system, a problem not yet recognized by many organizations.”<sup>1</sup>

An organization must adjust to indigenous needs and values of its own time or it will cease to have meaningful purpose. In its gasps for continued life, sometimes it becomes corrupt, professing to perform what it knows it cannot. *Society is burdened with a number of corrupt organizations.* They are all about us.

*School systems profess to teach our children reading, writing and arithmetic, but all too often they do not.*

*City governments profess to administer urban areas in the best interests of the inhabitants, but all too often they do not.*

*Police departments profess to protect the life and property of our citizens, but all too often they do not.*

These breakdowns are often the result of organizational decadence—environmental needs out-distance and overcome rigid organizations, making them obsolete.

This is what has been happening with our cities, which first evolved as independent oases of urban life in the midst of rural countryside

<sup>1</sup>John Diebold, *Man and the Computer*, Frederick A. Praeger, New York.

or along a barren coastline. Institutions to govern such an environment were created and expanded over the decades. While these organizational structures became rigid, the surrounding countryside grew in population and in industrial facilities so that today the geographical boundaries of New York City no longer delineate any meaningful physical separation. The areas of Northern New Jersey, New York City and surrounding counties, and Southern Connecticut have become one massive megalopolis, while the governmental organizations originally created continue to try to maintain their separatism. It just cannot work. Economic and social realities in urban areas no longer fit within the prescribed antiquated local government organizations, resulting in what has been often referred to as the "crisis of our cities."

One form of organizational decadence is over-organization. This often develops when a particular function outlives its need while the institution for executing the function continues. Any new action which is undertaken as a replacement for the old function is implemented by the establishment of an entirely new organization on top of the one that was there.

When the disturbed youth of our campuses throughout the world attack the Establishment, they are expressing their disdain for calcified organizations which have long forgotten their purposes and do not know how to respond to the needs of our times. These institutions have grown huge by feeding on themselves—one division busily shuffling papers which another division self-importantly created, which in turn a third division neatly files away, all without current reason or purpose.

Sooner or later every function becomes obsolete. When an organization is permitted to coast along without critical self-analysis and redesign, layers of structure are created one atop another. This form of bureaucracy results because there is no clearly identified responsibility assigned to anyone for pruning back superfluous branches and sections.

Clearly fixing responsibility and authority for weeding out unnecessary or even stifling segments is at least as important as fixing the responsibility and authority for enlarging an organization when the work load requires it. In practice, the human propensity for expanding operations leads administrators at every level to usurp authority for building up their departments. No one wants to cut back an organization which he heads; the less he controls, the less important he imagines his job to be.

Another form of organizational decadence

is brought on by oppressive organizations. Oppressive institutions, those which surround their administrators with rigid limitations on their activity, create their own pattern for decay.

*Today's despotism in our society is one of institution versus man.* The constraints we feel come from duly enacted laws, traditions, and that large body of usage, social custom. More lasting harm to organizational effectiveness is done in the name of "this is the way it has always been done around here" than is commonly recognized.

### A Blueprint for Effecting Change

Recognizing that these maladies must be reversed if society is to have the power to cure itself, what could we as members of the accounting profession—what should we—do about it?

I have suggested that we make our voices heard through our organizations but that is not enough. The complex and multiple problems cry out for action—action which accountants are uniquely qualified to provide. I would therefore like to propose that the American Society of Women Accountants and the American Woman's Society of Certified Public Accountants consider setting up a public service action committee to analyze the major problems that confront society—as well as industry—and to create prototype systems which can lead toward the solution of these problems.

There are five major areas in which we as accountants could logically and effectively involve ourselves through this public service action committee. Some of them relate to the organizational decadence which I have discussed.

#### *Local Government*

The first concerns the deterioration of the effectiveness of city government and the growing disillusionment and demoralization not only of city dwellers but increasingly of residents of areas surrounding our cities. As long as we refuse to recognize or act upon the fact that we live not in a city or a suburb but in a megalopolis, these problems will continue to multiply and to plague us.

I would suggest that such a public service action committee examine the most feasible way of setting up a super administrative agency to examine and master plan the problems of the megalopolis on a regional basis. Local political structures could be maintained, but the necessary resources should be focused to provide long-range solutions.



### *Entrenched Bureaucracies*

The second project strikes right at the heart of the problems caused by entrenched bureaucracy. By using its management skills and organizational expertise, the committee could offer guidelines that will enable local governments—and industry groups as well—to recognize where beneficial change must take place, even if it means peeling away layers upon layers of entire organizations that no longer serve a useful purpose. Moreover, a means for periodic audits of the existing bureaucracy by outside observers could also be provided. All too often, the ills which afflict organizations develop gradually, unrecognized by the organization staff until it is too late. An impartial review by trained auditors could detect incipient decay before it had progressed too far.

### *Non-Profit Organizations*

Third, educational and other non-profit institutions face the problem of having to meet the challenges of the seventies. Accountants could provide invaluable public service by helping to restructure these organizations so that they have the flexibility to cope with the rapid changes of today's fast-moving society. Entrenched power structures, rigid procedures, poor organization and out-dated goals all too often have hampered the good work that could be done here. The insights of the accountant are needed to guide these institutions out of this danger area.

### *Ecology*

The fourth project involves the life and death question of man and his environment—ecology. If this seems to be overly dramatic, it is only because so much has been said about it and so little done. We know that the systems and techniques for restoring pure air and water exist. It would take auditing skills to review, organize and codify all the known systems that can be employed according to a) those that are now available to us but are not used widely enough; b) those that are too expensive to use now but which could be made less costly if they were used more widely; and

c) the general types of systems which have to be developed by science and industry. If we can thereby pull together all that is now known to fight pollution, we will have made a major contribution, not only to our nation, but to the world.

### *The Professional Person*

The final point is the role of the accountant as a professional. The medical and dental professions have gone to great lengths to encourage their members to volunteer their services to the underprivileged through work in clinics. Members of the legal profession, through Legal Aid Societies, provide legal assistance to those who are unable to pay for such services. Accountants too can, and I believe should, volunteer their time on a regular basis for public service. Whether the accountants elect to serve with a public service action committee in any of the problem areas discussed here, or to assist minority groups to establish and maintain small businesses, or to advise low-income families on proper budgeting of their available resources, they would significantly enhance the status of the accounting professional and provide a vital service to their communities and their country.

### **A Challenge**

Like every profession, that of accounting must depend upon the infusion of new blood to carry it on to greater heights. Yet, in the eyes of the under-thirty generation, accountants are the Establishment, the protectors and defenders of the status quo. It is time to show them that we too recognize the need for change in many areas—the kind of change that will improve our institutions and eliminate the stagnation that has been so discouraging to the young.

We have an important stake in our democratic society and we have an important obligation to help protect it. We cannot shield ourselves in a cloak of neutrality. Rather we can and must use our professional institutions as meaningful voices speaking out with force and dignity against the voices and acts of decay and evil.

---

***"Every man owes some of his time to the upbuilding of the profession to which he belongs."***

**Theodore Roosevelt**

# THE CAREER WOMAN AND THE TAX REFORM ACT OF 1969

*Tax rates never make anyone very happy—and the author, a single career woman, finds aspects of the 1969 Tax Reform Act which she believes are discriminatory.*

Patricia C. Elliott, CPA  
Arlington, Texas

In an article published in *The Woman CPA* two years ago, Ula Motekat<sup>1</sup> made the point that taxation has been effectively used to further certain national goals other than revenue-raising. In this same vein, this article examines the new Tax Reform Act of 1969 and the impact it will have on the tax burden of a select group of taxpayers—career women.

It must be remembered, first of all, that the Civil Rights Act of 1964 made overt discrimination against women illegal in the area of employment, compensation, and promotion. Obviously, the intent of Congress was *equal* rights for *all* in the pursuit of a career; it can therefore be assumed to be a national goal. And the question can therefore be raised: Does the Tax Reform Act of 1969—the first Tax Act since the Civil Rights Act of 1964—help or hurt the pursuit of this particular national goal? To answer this general question, several particular questions must first be raised and answered: 1) Does the new law increase or decrease the career woman's proportionate tax burden as compared to the old law? 2) Do the new provisions discriminate against either the single or married career woman? 3) If discrimination is found to exist, how did this situation arise and what can be done about it?

## Is the Tax Burden Increased or Decreased?

To answer this question, a comparison must be made between a married career woman and a single one for both 1969 (under the old law) and 1973 (under the new law when all provisions are fully effective). Two women have volunteered for this comparison: Sally Single, a salaried employee who, true to her name, is single and Wilma Wife, a married employee with no children. Both of them earn \$18,000 a year. To further the comparison

it is assumed that Wilma files a separate return. (This will not cause a distortion since the income-splitting effect of a joint return is nonexistent if Wilma's husband is in the same bracket as she is. The same results would be obtained if her husband were included, but the effects are easier to isolate if he is left out.) To simplify the comparison, a standard deduction is assumed.

Table I shows that Wilma pays \$210 more tax than Sally and that the difference is due solely to the standard deduction limitation for a married person filing a separate return. The tax penalty for a working wife as opposed to a working single woman is not too pronounced. This tax difference might be partially wiped out if both women were itemizing their deductions, but it would not be completely eliminated. In fact, the itemization of deductions may increase the difference, since Sally Single would tend to have more than one half the total deductions of Wilma Wife and her husband—all other things being equal. For example, if Sally owned a home, her property taxes and interest would be as much as the total paid by Wilma and her husband.

TABLE I  
1969

	<i>Sally Single</i>	<i>Wilma Wife</i>	<i>Difference</i>
Salary	\$18,000	\$18,000	
Standard deduction	1,000	500	
	<u>17,000</u>	<u>17,500</u>	
Exemptions	600	600	
Taxable Income	<u>\$16,400</u>	<u>\$16,900</u>	
Tax	<u>\$ 4,498</u>	<u>\$ 4,708</u>	<u>\$210</u>

(Surcharge is ignored.)



**PATRICIA C. ELLIOTT, CPA**, is Assistant Professor of Accounting at the University of Texas at Arlington.

Currently Miss Elliott is a candidate for the Doctorate degree at the University of Colorado; her Bachelor's degree is from Eastern New Mexico University and her Master's is from the University of Denver.

Miss Elliott is a member of AICPA, ASWA, AWSCPA, and the National Tax Association.

On the basis of Table I, it can be concluded that under the old law a difference exists between a single and a married career woman's tax bill, but that the difference is not dramatic.

Table II uses the same data and illustrates the tax effect for 1973 under the new law. Although Wilma Wife's tax bill decreased by \$273, she is paying \$837 more than is Sally Single on the same salary. Part of the difference is due to the increased standard deduction (15% of adjusted gross income or \$2,000, whichever is less), but most of the difference is due to the new single taxpayer's tax rate schedule. The new rates have reduced Sally's tax bill by \$900, thereby reducing her proportionate share of the tax burden.

TABLE II  
1973

	<i>Sally Single</i>	<i>Wilma Wife</i>	<i>Difference</i>
Salary	\$18,000	\$18,000	
Standard deduction	2,000	1,000	
	<u>16,000</u>	<u>17,000</u>	
Exemptions	750	750	
Taxable Income	<u>15,250</u>	<u>16,250</u>	
Tax	<u>\$ 3,598</u>	<u>\$ 4,435</u>	<u>\$837</u>
Difference between 1969 and 1973	<u>\$ 900</u>	<u>\$ 273</u>	<u>\$627</u>

### Do the New Provisions Discriminate Against Either Single or Married Career Women?

Tables I and II indicate that the married career woman pays more tax than does the single career girl. Or, in other words, the tax law rewards bachelorhood and punishes marriage. Table III shows the full effect of marriage on the honeymooners' tax bill. If Sally Single and Bob Bachelor (whose salary is

TABLE III  
1973

	<i>Sally Single</i>	<i>Bob Bachelor</i>	<i>Joint</i>
Salaries	\$18,000	\$20,000	\$38,000
Standard deduction	2,000	2,000	2,000
	<u>16,000</u>	<u>18,000</u>	<u>36,000</u>
Exemptions	750	750	1,500
Taxable Income	<u>\$15,250</u>	<u>\$17,250</u>	<u>\$34,500</u>
Tax	<u>\$ 3,598</u>	<u>\$ 4,255</u>	<u>\$ 9,710</u>
Combined Tax if Single			7,853
Tax Penalty			<u>\$ 1,857</u>

\$20,000 annually) do not marry and pay their separate tax bills, the total tax for the two of them is \$7,853. But if they marry and file either joint or separate returns, their total tax jumps to \$9,710! This is an immediate tax penalty of \$1,857 due solely to a change in marital status.

If, on the other hand, Bob Bachelor marries a woman who does not work outside the home, he gets a tax break of \$855 (See Table IV). By marrying a housewife, rather than a

TABLE IV  
1973

*Bob Bachelor and Mrs. Harriet Housewife*

Salary	\$20,000
Standard deduction	2,000
	<u>18,000</u>
Exemptions	1,500
Taxable Income	<u>\$16,500</u>
Tax	<u>\$ 3,400</u>
Tax as a Bachelor	<u>\$ 4,255</u>
Tax savings	<u>\$ 855</u>

career woman, Bob Bachelor's total tax bill is \$6,310 less (\$9,710 less \$3,400)—while his family's gross income is \$18,000 less. So the financial effect of the working wife is increased take home pay of \$11,690.

### How Did This Situation Arise and What Can Be Done About It?

It would be unfair to assume that Washington is full of anti-feminists, from the Treasury Department through Congress to the White House, who decided deliberately to subsidize families with non-working wives and to oppose families with working wives. Congressmen probably do not intentionally try to encourage women to work only until they can catch a man and then to retire promptly to baby-raising and bridge. This situation must therefore be assumed to be an accident.

Originally, the joint return provisions with the income-splitting benefits were introduced to give uniform tax benefits to all U. S. residents. The federal tax law determines what income is taxable, but ownership of that taxable income is determined by state law. Thus, in community property states, a non-working wife owns one half of her husband's income. These couples could therefore file separate returns and obtain a greater tax benefit than could couples with a non-working wife in a non-community property state. Clearly, the joint return provisions eliminate this tax inequity which is arbitrarily determined by place of residence.

The Tax Reform Act of 1969 tried to eliminate another inequity placed on single taxpayers. The rate tables reduce the tax liability for single taxpayers to roughly 17% to 20% above that of married couples with the same income. While this appeared to be a step in the right direction so far as single taxpayers were concerned, the net result is an unfair shifting of the total tax burden to married career women and their husbands.

Since there are approximately 15 million married women working in the United States,<sup>2</sup> this group is large enough to deserve consideration in the income tax laws. Exactly how the situation can be corrected is a matter of conjecture. One solution would be to devise a new tax rate table for married working women. This is in conflict with the states' property ownership laws, but the same thing occurs in the adjustments now required for filing separate returns for income averaging provisions. An adjustment there requires, in effect, that each spouse claim only his or her earned income in the computation. Why could not the same thing apply to a married woman's tax return? Regardless of how this could be achieved by Congress, it is obviously a valid point that deserves consideration.

### Conclusion

In conclusion, the Tax Reform Act of 1969 favors the single career woman but punishes the married one. This is clearly in conflict with the national goal of nondiscrimination in employment on the basis of race, color, creed, or sex.

Naturally, the new law applies to all taxpayers, whether black, white, Protestant, Catholic, Jew, man, or woman. However, by accident these provisions tend to single out married women and penalize them. If career women tended to marry "house-husbands," they would obviously derive the same benefits as men marrying housewives. But since society in general frowns on unemployed husbands

and smiles on unemployed wives, the situation continues to discriminate against only one group—married career women.

It is highly improbable that the new law will discourage career women from marrying or encourage married ones to get divorces. If it did, that would be equal to saying that the dependency allowance encourages everyone to have an unlimited number of children or that the stepped-up basis allowed to heirs encourages one to die. But what is objectionable is the reward or punishment after the fact. The most common reaction to this situation is the remark that "families with two incomes can afford to pay more taxes." Nonsense! This is exactly the argument used prior to the Civil Rights Act to justify paying women less than men for the same job and has been discarded as an invalid reason by both the Congress and the courts.

Working wives are thus in the rather incongruous position of being protected by the federal government from pay discrimination and of being penalized for working by that very same government's tax structure. What will be done to correct the situation depends to a large degree on what the married career women are willing to do about it. As individuals, they can write to their respective congressmen. If the 15 million married career women wrote their respective congressmen, the impact should be enough to stimulate action of some sort! Women's organizations can issue statements criticizing the new law and circulate the facts of this tax injustice. The result of the effort should be an increase in the awareness that the Tax Reform Act of 1969 is in conflict with the national goals set down by the Civil Rights Act of 1964.

<sup>1</sup>Ula K. Motekat, "Taxation: A Means to Many Ends," *The Woman CPA* (August 1968), pp. 5-9.

<sup>2</sup>United States Department of Labor, *Statistics on Manpower*, Supplement to the *Manpower Report of the President* (Washington: US Government Printing Office; March 1969), p. 28.

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The outlook particularly suggests broadened career opportunities for women.

"U.S. Manpower in the 1970s"

United States Department of Labor

# THEORY AND PRACTICE

## Current Studies and Concepts

EILEEN T. CORCORAN, CPA, Special Editor  
Arthur Young & Company  
Chicago, Illinois



*This month the column will discuss a potpourri of items either issued by the American Institute of Certified Public Accountants or under discussion by it.*

### Receivables and Inventories

In September 1970 the Committee on Auditing Procedures issued Statement on Auditing Procedure No. 43 entitled *Confirmation of Receivables and Observation of Inventories*. In this statement the committee reaffirms the importance of these well-established auditing procedures and states that the purposes of the Statement are to provide additional guidelines for the independent auditor in confirming receivables and observing inventories and to modify existing reporting requirements.

Among other matters covered, the Statement

1. states a preference for positive over negative confirmations in certain circumstances and indicates that if negative confirmations are used the number of requests sent or other auditing procedures applied to the receivable balance should normally be greater.
2. requires the use of other procedures (examination of evidence of subsequent cash receipts, sales and shipping documents, etc.) to provide evidence of the validity and accuracy of significant non-responding accounts where positive confirmations are used.
3. requires the auditor always to make or observe some physical counts of the inventory and apply appropriate tests of (any) intervening transactions in order to have an opinion which is not qualified or disclaimed.
4. modifies previous reporting requirements so that it is no longer necessary to expand the standard scope paragraph of the opinion to report the omission of confirmation of receivables or observation of inventories when these procedures are impracticable or impossible and the auditor satisfies himself by the application of other auditing procedures.

However, it provides that when application of these procedures is not impracticable or impossible but are merely not performed at the client's request, the auditor must disclose this fact in the scope paragraph (or in a middle paragraph of the auditor's report) and, generally, disclaim an opinion on the financial statements taken as a whole.

### Intangible Assets (Accounting Principles Board Opinion No. 17)

The aspects of this Opinion as they relate to goodwill arising from business combinations were discussed in this column in the November issue. Its application, however, is not limited to such situations. The Opinion covers accounting for identifiable and unidentifiable intangible assets that a company acquires, excluding research and development costs and preoperating costs. It applies to regulated companies in accordance with the provisions of the Addendum to APB Opinion No. 2, Accounting for the "Investment Credit," 1962. The Opinion provides that

1. A Company should record as assets the costs of intangible assets acquired from other enterprises or individuals. Costs of developing, maintaining, or restoring intangible assets which are not specifically identifiable, have indeterminate lives, or are inherent in a continuing business and related to an enterprise as a whole—such as goodwill—should be deducted from income when incurred.
2. Intangible assets acquired singly should be recorded at cost at date of acquisition. Cost is measured by the amount of cash disbursed, the fair value of other assets distributed, the present value of amounts to be paid for liabilities incurred, or the fair value of consideration received for stock issued.
3. Intangible assets acquired as part of a group of assets or as part of an acquired company should also be recorded at cost at date of acquisition. Cost is measured differently for specifically identifiable in-

tangible assets and those lacking specific identification. The cost of identifiable intangible assets is an assigned part of the total cost of the group of assets or enterprise acquired, normally based on the fair values of the individual assets. The cost of unidentifiable intangible assets is measured by the difference between the cost of the group of assets or enterprise acquired and the sum of the assigned costs of individual tangible and identifiable intangible assets acquired less liabilities assumed. Cost should be assigned to all specifically identifiable intangible assets; cost of identifiable assets should not be included in goodwill.

4. Recorded costs of intangible assets should be amortized by systematic charges to income over the periods estimated to be benefited. Factors which should be considered in estimating the useful lives of intangible assets include:
  - a. Legal, regulatory, or contractual provisions which may limit the maximum useful life.
  - b. Provisions for renewal or extension which may alter a specified limit on useful life.
  - c. Effects of obsolescence, demand, competition, and other economic factors which may reduce a useful life.
  - d. Service life expectancies of individuals or groups of employees to which the intangible assets relate.
  - e. Expected actions of competitors and others which may restrict present competitive advantages.
  - f. The fact that an apparently unlimited useful life may in fact be indefinite and benefits cannot be reasonably projected.
  - g. The fact that an intangible asset may be a composite of many individual factors with varying effective lives.The period of amortization of intangible assets should be determined from the pertinent factors.
5. The cost of each type of intangible asset should be amortized on the basis of the estimated life of that specific asset and should not be written off in the period of acquisition. Analysis of all factors should result in a reasonable estimate of the useful life of most intangible assets. A reasonable estimate of the useful life may often be based on upper and lower limits even though a fixed existence is not determinable.
6. The period of amortization should not,

however, exceed forty years. Analysis at the time of acquisition may indicate that the indeterminate lives of some intangible assets are likely to exceed forty years and the cost of those assets should be amortized over the maximum period of forty years, not an arbitrary shorter period.

7. The straight-line method of amortization—equal annual amounts—should be applied unless a company demonstrates that another systematic method is more appropriate. The financial statements should disclose the method and period of amortization. Amortization of acquired goodwill and of other acquired intangible assets not deductible in computing income taxes payable does not create a timing difference, and allocation of income taxes is inappropriate.
8. A company should evaluate the periods of amortization continually to determine whether later events and circumstances warrant revised estimates of useful lives. If estimates are changed, the unamortized cost should be allocated to the increased or reduced number of remaining periods in the revised useful life but not to exceed forty years after acquisition. Estimation of value and future benefits of an intangible asset may indicate that the unamortized cost should be reduced significantly by a deduction in determining net income. However, a single loss year or even a few loss years together do not necessarily justify an extraordinary charge to income for all or a large part of the unamortized cost of intangible assets. The reason for an extraordinary deduction should be disclosed.
9. Ordinarily goodwill and similar intangible assets cannot be disposed of apart from the enterprise as a whole. However, a large segment or separable group of assets of an acquired company or the entire acquired company may be sold or otherwise liquidated, and all or a portion of the unamortized cost of the goodwill recognized in the acquisition should be included in the cost of the assets sold.

The Opinion is effective to account for intangible assets *acquired after* October 31, 1970. Intangible assets recognized in business combinations initiated before November 1, 1970 and consummated on or after that date under the terms prevailing on October 31, 1970 may be accounted for in accordance with this Opinion or Chapter 5 of ARB No. 43 and APB Opinion No. 9.

## Fundamentals

The Accounting Principles Board has under consideration the issuance of its fourth statement. As mentioned previously in this column, the Board issues statements rather than opinions when it appears that preliminary analyses or observations on accounting matters should be issued in advance of research and study by the Board. This statement is entitled *Basic Concepts and Accounting Principles Underlying Financial Statements of Business Enterprises* but is more commonly known as "Fundamentals".

The Statement is intended to provide practitioners with a better understanding of the broad fundamentals of financial accounting and with a basis for guiding future developments in this area. It does not propose solutions to financial accounting problems, but it does provide a framework within which such problems may be solved.

To these ends, the Statement discusses the nature of financial accounting, the environmental forces that influence it, and the potential and limitations of financial accounting; sets forth the objectives of financial accounting and financial statements; and identifies and describes present generally accepted accounting principles.

This editor has read the Statement during its various draft stages and it is a very interesting document.

### Other Matters under Discussion by the Accounting Principles Board

#### *Equity method of accounting*

The Board has tentatively decided to extend the use of the equity method of accounting described in Opinion No. 10 in a

proposed Opinion on long-term investments in common stocks. The equity method would apply to 50 percent-owned companies, corporate joint ventures, foreign subsidiaries, parent-company-only statements presented as the primary statements to stockholders, and certain investments below 50 percent in which a controlling interest is presumed. A draft of the proposed Opinion will be considered by the Board very soon. This subject is also under consideration by the Canadian and United Kingdom Institutes of Chartered Accountants.

#### *Marketable securities*

The Board has tentatively agreed that investments in readily marketable stocks which are carried as current assets should be accounted for at market value rather than at cost, with unrealized appreciation or depreciation of value included in net income. The Board plans to give high priority to the development of an Opinion on this subject and to further study of accounting for investments. Investments held by banks and insurance companies are the subjects of separate studies.

#### *Long-term receivables or payables*

The Board has reached a tentative consensus that in those cases where a long-term receivable or payable bears interest which is clearly below a reasonable rate at the time of the transaction, or is non-interest-bearing, it should be discounted at an appropriate rate. The Board's objective is to reflect the substance of these transactions by reporting (1) the receivable or payable at an appropriate principal amount and (2) the interest income or expense at amounts determined by applying a realistic interest rate.

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*"This accounting follows from the observation that few, if any, intangible assets last forever, although some may seem to last almost indefinitely."*

*"APB Opinion No. 17: Intangible Assets"*

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#### TWENTY-FIVE YEARS AGO IN THE WOMAN CPA—FEBRUARY 1946

*"We do not advocate a return to depression tax rates at this time. We fully recognize the problem of financing the war just terminated, and the added problems to be met by the Treasury in meeting financial demands of the postwar period."*

**Alberta R. Crary, CPA**  
Tax Editor

# TAX FORUM

ANNE D. SNODGRASS, CPA, Editor  
Texas Instruments Incorporated  
Dallas, Texas



The Tax Reform Act sections dealing with private foundations are the result of more Congressional study, thought, and literary discourse than any other provisions included in this very complicated legislation. Unfortunately, the result approaches chaos. The provisions are complicated and nearly impossible to interpret. But, nevertheless, they are now a part of the Internal Revenue Code and must be observed.

## *What Isn't a Foundation*

Under the new law any existing 501 (c) (3) organization must notify the Internal Revenue Service that it is not a private foundation; otherwise, it will be presumed to be one. Churches are exempt from these notification requirements; so are public charities with annual gross receipts of \$5000 or less, although the Internal Revenue Service has requested that they file anyway. The time for notification does not expire until 90 days after the regulations prescribed under Section 507 become final. Recently a Form 4653 was circulated to all 501 (c) (3) organizations for the purpose of submitting the necessary notification. The cover letter requested that the Form be filed within 30 days. The implication was that failure to file this form would result in an automatic characterization as a private foundation. This is not in accordance with the law. Although the filing of the form indicating a status other than a private foundation is temporary protection to donors and contributors to the organization, failure to file is not fatal.

There is widespread misunderstanding about what constitutes a foundation and/or a private foundation. Many organizations are reveling in the confidence that they are not foundations because they are corporations, or trusts, or some other form of organization. Unfortunately, this is not how the Internal Revenue Service sees it—a foundation can be a corporation, a trust, or any other type of tax-exempt organization that is not specifically excluded from the definition.

To be precise, a private foundation is any 501 (c) (3) organization that is not a church, a school, a hospital, a medical research organization operated in conjunction with a hospital, a governmental unit, an organization operated

for the benefit of a college or a university owned by a governmental unit, or an organization that normally received, directly or indirectly, a substantial amount of its support from a governmental unit or from the general public. These organizations are basically the organizations described in Section 170 (b) (1) (A) of the Code and are those to which individuals can make contributions up to 50 percent of their net taxable income.

In addition, the new Code specifically excludes any 501 (c) (3) organization which normally received more than one-third of its support from gifts, grants, contributions, or membership fees and gross receipts from activities which are not unrelated trades or businesses. In making this determination, receipts from any one person to the extent they exceed \$5000 or one percent of the organization's total support must be excluded and also any receipts from disqualified persons, from governmental units, and from any of the so-called "50 percent organizations" described above must be excluded. In addition to the public support test, the organization must also receive no more than one-third of its support each year from gross investment income. This type of organization would include symphony societies, garden clubs, Girl Scouts, and many other membership organizations.

The third type of organization which is not a private foundation is one which is organized and operated exclusively for the benefit of or to carry out the purposes of one or more of any of the organizations described above. In order to escape the private foundation characterization it must be controlled by the organization it benefits and must not be controlled directly or indirectly by any substantial contributor or other disqualified person other than one of the foundation managers. A substantial contributor is one who contributes more than \$5000 or more than two per cent of the total contributions. The substantial contributor status is cumulative, so any person who has once become a substantial contributor remains one and must never serve in any capacity which would make him a foundation manager (an officer, director, or trustee). The organizations in this category can be operated for the benefit of, or to carry out the purposes of, certain



membership organizations other than 501 (c) (3) organizations. For example, the educational foundations and scholarship funds of business leagues, social welfare organizations, and professional organizations will escape the dubious distinction of becoming private foundations under this exclusion.

The final type of organization which is not a private foundation is one which is organized and operated exclusively for testing for public safety.

#### *Annual Tax to Pay the Auditor*

Every 501 (c) (3) organization in existence on October 9, 1969, must determine its status as of October 9, 1969. If, on that date, the organization is established to be a private foundation, a 4% excise tax will be imposed on the foundation's net investment income. This tax is supposed to pay the bill for the policing of private foundations by the Internal Revenue Service. In determining net investment income, only gross income from interest, dividends, rents, and royalties, plus net capital gains is taken into account. Ordinary and necessary expenses incurred in the production or collection of the gross income subject to tax are allowable deductions. Depreciation must be deducted on a straight line method only, and percentage depletion is not allowed. In determining taxable capital gains, only gains and losses from disposition of property used for production of gross investment income or unrelated business income are taxable. The basis for determining gain from the sale of property held on December 31, 1969, is its cost or its fair market value on that date, whichever is lower. No capital loss carryovers will be available, so losses can be taken only to the extent of gains during the taxable year.

The 4% audit fee tax is just the beginning. The other taxes imposed on private foundations are penalty taxes designed to prevent certain prohibited transactions, to restrict the activities and investment practices of foundations so that these activities are confined to charitable purposes, and to prevent the use of foundations for personal gain by their creators. There are five categories of prohibited transactions—self-dealing, failure to distribute income, excess business holdings, investments that jeopardize charitable purpose, and certain expenditures.

#### *Taxes on Self-Dealing*

Section 503 of the Internal Revenue Code specifies a number of prohibited transactions which are characterized as self-dealing. Arm's-length standards were imposed on these trans-

actions, and failure to comply resulted in loss of exempt status and disallowances of charitable contribution deductions.

New Section 4941 removes private foundations from Section 503 and prohibits self-dealing by imposing taxes on the self-dealer and on any foundation managers knowingly participating in the transactions. The self-dealer is a disqualified person dealing with the private foundation, and a disqualified person is a substantial contributor, a foundation manager, the owner of more than 20 percent of a corporation, partnership, or trust that is a substantial contributor, any member of the immediate family of any of the above, or a corporation or partnership or trust in which other disqualified persons have ownership of more than 35 percent.

The first-level tax is imposed at the rate of 2½% on the foundation manager and 5% on the self-dealer. If the act is not corrected within the prescribed period, a second-level tax at the rate of 200% of the amount involved will be imposed on the self-dealer and 50% on the foundation manager. To correct such transaction, it must be undone to the extent possible or at least the foundation must be placed in a financial condition no worse than if the disqualified person had been acting in the highest fiduciary capacity.

Acts of self-dealing include any of the following transactions between a disqualified person and a private foundation:

- (1) sale or exchange or leasing of property;
- (2) lending of money or other extension of credit;
- (3) furnishing of goods, services, or facilities;
- (4) payment of compensation to a disqualified person;
- (5) transfer of income or assets of a private foundation; and
- (6) any agreement between a private foundation and a government official for the payment of money to such official.

#### *Taxes on Failure to Distribute Income*

Unreasonable accumulations of income by charitable organizations have been prohibited in the past under Section 504. Violations resulted in loss of tax exemption. Now under Section 4942 all private foundations except private operating foundations are liable for a penalty tax on failure to distribute income within one year following the taxable year in which it is earned. They are also required to distribute corpus if their income is less than a

*(Continued on page 19)*

# REVIEWS

## Writings in Accounting



DR. MARIE E. DUBKE, CPA, Editor  
Memphis State University  
Memphis, Tennessee

**"A Search for Fairness in Financial Reporting to the Public,"** Leonard Spacek, Arthur Anderson & Co., Chicago, Illinois, 1969. 599 pages. (*Available at most libraries.*)

Like a box of fine, very rich candy spilled before the reader, these addresses and papers tempt, then overwhelm the appetite. One cannot devour the collection in an evening; it must be put aside for tastings on several tomorrows after the first selections are savored and digested.

A "Search for Fairness" it is indeed. Mr. Spacek's much-quoted summary in "The Basic Postulates of Accounting" (ARS No. 1) is expanded here over a variety of accounting dilemmas. He talks of elusive truths; of phantom profits; of specifics such as public utility regulation, electronic business systems, realistic disclosures, earnings per share; of legal responsibility of the accountant; of too ponderous movement and professional obsolescence.

Among this taster's choices: "We have been too engrossed in doing electronically—almost instantaneously—the same things we were previously doing manually, so that in many cases we have overlooked that the procedures we used and the information we gathered were designed to accommodate older, slower methods. The best route from one place to another may be a much different route on land than by air." (Page 397)

One of many allegories in his recurrent theme of fairness reads: "Business is a competitive effort. And there is no better way to destroy the good fruits of competition than to have an umpire who applies different rules to the same set of facts for one side than for the other." (Page 430)

In a speech entitled "Accounting vs. accounting mechanics" he says: "The accounting profession has literally lost itself in its own semantics; and ten years of debate over accounting principles have failed to achieve significant progress in providing more reliable information for users of financial statements."

Concerning accounting principles: "We assert that their existence sprang from historic authorities, even court decisions; but authority without reasoning showing why an objective is reached is useless and no authority is worth

the paper it is written on without reasoning tied to facts as they exist today." (Page 379)

Leonard Spacek's stature in the accounting profession is legendary but it is his style of writing with wit and pictorial reference that endears him to the reader. Who would not be intrigued by "Public Accounting—Dynamism or Dinosaur"? Savored through all this entertainment are perspective and depth and foresight that give evidence of a mind reaching far beyond technical excellence.

Constance T. Barcelona  
Camargo Club

**"Eighteen Years of the UEC,"** Louis Perridon, *JOURNAL UEC*, October 1969, January 1970.

With an increasing number of American firms doing business in Europe and an increasing number of European firms establishing plants in this country, European accounting practices become of greater interest to accountants in the United States. Professor Dr. Louis Perridon, Secretary General of the UEC (European Union of Expert Accountants, Economists and Financiers) tells of the organization which was founded in March 1951. It brought together various professional bodies from approximately seventeen countries in Western Europe and Yugoslavia to examine the possibility of setting up a European organization.

The new organization was designed to fulfill three functions. First, the UEC had a cultural aim, giving to European accountants the opportunity to work together to develop accounting theories and techniques. Second, at the professional level it was to prepare technical studies aimed at maintaining high standards in training future accountants and enabling accountants to use their skills in other countries. Finally, the UEC was to promote student exchanges. This last objective has not been reached. It was also implicit in the intentions of UEC's promoters that it should make an effective contribution to the political union of Europe.

In 1951 the UEC adopted measures which were aimed at achieving its objectives. Thirteen scientific, technical, and professional committees were set up. Each committee was chaired by a representative from a predeter-

mined country and each nation was responsible for one branch of study and coordination in that field. In 1965 the number of committees was reduced to nine.

The committees have produced several publications which have aroused considerable interest, and additional books on valuation and the establishment and auditing of group accounts are in progress. Some of the studies in progress deal with problems of publication of financial information and the impact of taxation on investment decisions. The committee work is made difficult partly because of the technicality of the questions under study and partly because of the variety of languages used.

Professor Perridon feels that much remains for the UEC to do, but believes that, aided by the experience and goodwill of all its members, it should be possible to achieve its original objectives.

The general theme of all UEC Congresses is the contribution of accountants, economists, and financiers to the development of the European economy. Within this framework, four subjects of present interest were discussed at the Sixth Congress held in Copenhagen in October 1969.

The participants in the first panel stressed the need to present accounts so that they correspond to the needs of the interested parties. It was pointed out that shareholders do not constitute a homogeneous group but have different interests and motivations—for example, the private shareholders and institutional investors. The panel also discussed the responsibility of accountants for the contents of management reports. Some members argued that the accountant cannot remain aloof; other members disagreed.

The second panel considered modern requirements for accounts prepared for the information of management. The increase in the burden laid upon accounting was stressed; from being a tool of recording past economic facts, it has become a tool of management.

The third panel discussed the adaptation of auditing methods to recent modern developments in accounting techniques. All members of the panel agreed on the conception of the role of the auditor: the auditor controls the accuracy of the accounts and their compliance with legal provisions and he cannot certify the accounts unless he is convinced of the correctness of the statements. Members of the panel disagreed, however, on the impact of the introduction of electronic data processing upon auditing methods and on the training which the auditor must acquire and the assistance he can obtain from E.D.P. specialists.

The fourth panel dealt with problems concerning consolidated accounts. In view of the growing internationalization of companies, these problems are of undisputed interest. International practice tends towards complete incorporation of affiliated companies and the creation of adjustments for minority interests. The question whether only companies belonging to the same sector should be consolidated so that the annual accounts would be “homogeneous” or whether companies of different sectors should be consolidated on the national level was not discussed exhaustively, but it would seem that the present trend is toward “heterogeneous” consolidations.

*The article gives good insight into some of the problems facing European accountants, problems which do not seem to be so very different from those faced by accountants in this country.*

Mary E. Burnet, CPA  
Rochester Institute of Technology

**“Value Added Tax in the European Tax Structure,”** J. A. Arnold, ACA and E. A. French, LLB, *CANADIAN CHARTERED ACCOUNTANT*, August 1970.

There is a growing interest in the value added tax (VAT) as a possible addition to this country's tax structure. Hopefully the electorate will have an understanding of the VAT before having to voice an opinion via the ballot. It therefore is important that accountants and others be capable of informing the voters of the impact and implications inherent in a VAT system.

This well-written article illustrates how a VAT is levied and then proceeds to set forth the advantages and disadvantages of such a system of taxation. Because taxes affect people, discussions of theory fall short of practice. These authors devote most of their efforts to the actual implementations of the VAT by the countries within the European Economic Community.

France and Germany have had the longest experience with the VAT. Both countries use multiple rates to combat the regressive nature of the VAT. Multiple rates, exemptions, and modifications increase the difficulties of administration and collection; however, these problems pale in light of the significance of the VAT in the Community—the creation of a sizable free trade area through the removal of the impact of indirect taxes.

*This article is a must for anyone concerned with the value added method of taxation.*

Dr. Marilyn G. Winborne, CPA  
University of Arizona

"COMPUTER JOB MATCHING NOW AND TOMORROW, Edward P. Dear, PERSONNEL. Volume 47, Number 3, May-June 1970.

Almost one-fifth of America's total work force will change jobs this year. This mobility has made the employment business big business—private agencies have more than doubled since 1963. The nature of the employment agency has also changed to handle higher salaried professional personnel.

Job retrieval by computer is less than three years old; however, it has already had widespread acceptance as an employment technique. National Personnel Associates has a network of 150 independent placement agencies who handle professionals in a broad range of fields. Each of the member agencies has a Mark II on line remote-access computer terminal in its office.

The National Registry, PICS, and NISARC

are three computerized registers who have followed National Personnel Associates into this field. In addition, three private computerized retrieval firms, GRAD, RE-CON, and COMPU JOB, have become factors in college placement. Several pilot programs are in progress by college placement offices who have adopted their own computerized methods to aid in their internal retrieval operations.

The author is executive vice-president of Employment Systems, Inc. He states that leaders in the field predict that in ten years 60 percent of all employment placements will be made by computerized matching.

**While we all accept job mobility, if more of the right jobs and right people could be brought together in the first place, job mobility might be less costly.**

**Dr. Patricia L. Duckworth, CPA  
Metropolitan State College at Denver**

## TAX FORUM

*(Continued from page 16)*

specified amount; for foundations created before May 27, 1969, the minimum investment return does not apply prior to January 1, 1972. The expenditures must be "qualifying distributions," otherwise they do not count in determining whether or not sufficient distributions have been made. "Qualifying distributions" include those to public charities and private operating foundations, but not to other private foundations. Private foundations must check carefully the status of the organizations to which it makes contributions. Other qualifying distributions or expenditures are those which are made directly for charitable purposes and expenditures for assets to be used for charitable purposes.

The initial tax is imposed at the rate of 15% and is imposed annually until the undistributed income is paid out in a qualified distribution. If a deficiency notice is issued with respect to undistributed income, a second-level tax at the rate of 100% is imposed unless qualifying distributions are made within 90 days after the issuance of the deficiency notice.

### *Taxes on Excess Business Holdings*

Foundations have been used in some cases to maintain control of businesses, with the result that the charitable functions get lost in the press of the business management. This situation was not covered under the old law, but new section 4943 limits the business hold-

ings which a private foundation can own or control.

Permitted holdings are measured by reference to the voting stock of a corporation owned by the foundation in combination with voting stock held by any disqualified persons. Together, no more than 20 percent can be held. However, if all the disqualified persons own no more than 20 percent of the voting stock of a corporation, the private foundation is permitted to hold nonvoting stock. If the corporation is controlled by disinterested third persons, the combined holdings can be as high as 35 percent.

Taxes on excess business holdings are 5% of the value of such holdings at the first level and 200% at the second level, which is imposed where a deficiency notice has been issued and the prohibited act is not corrected.

In addition to the two-level penalty taxes described above, a third-level sanction is imposed in case of willful and flagrant violations. The third-level sanction is essentially a termination tax which requires the repayment of all income, gift, and estate tax benefits which have ever accrued to the foundation or its substantial contributors or its entire net assets.

The March 1971 issue of the Tax Forum will cover the remaining foundation no-no's—that is, prohibited investments and prohibited expenditures. In the concluding installment on private foundations will be summaries of the reporting requirements and requirements for exercising expenditure responsibility as to certain grants.

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