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Members in Large Public Accounting Firms

May 2004

AICPA

American Institute of Certified Public Accountants

New Employee Benefit Plan Audit Quality Center Enables Firms to Demonstrate Commitment to Quality

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Financial statement audits of employee benefit plans represent a critical portion of the many audits performed by CPAs. About 80,000 employee benefit plans are audited by more than 4,700 CPA firms annually. Employee benefit plan audits include audits of pension, health and welfare, and 401(k) plans subject to the Employee Retirement Income Security Act under the regulatory authority of the U.S. Department of Labor.

The AICPA is committed to helping its members achieve the highest standards in performing quality employee benefit plan audits. To help CPAs meet the challenges of performing quality audits in this unique and complex area, the AICPA has launched the Employee Benefit Plan Audit Quality Center, a firm-based voluntary membership center for firms that audit employee benefit plans. The center is now accepting enrollments from CPA firms.

The center is one of three new audit quality centers focusing on key public interest issues: public companies, employee benefit plans and governmental entities. The AICPA in Jan. established the Center for Public Company Audit Firms, which provides resources to members who audit SEC registrant companies. In Nov. 2003, the Institute began development of the new Employee Benefit Plan Audit Quality Center, with an executive committee chaired by Anita Baker of Larson, Allen, Weishair & Co., LLP in Minneapolis. Center membership requirements were established by the committee and approved by the AICPA Board of Directors in Feb.

The center will:

- Establish a community of firms that demonstrate a commitment to employee benefit plan audit quality.
- Serve as a comprehensive resource provider for member firms.
- Provide information about the center's activities to other employee benefit plan stakeholders.
- Raise awareness about the importance of employee benefit plan audits.

A dedicated center Web site provides a single access point to the latest developments in employee benefit plan audits for those who want to learn more about the center and its features.

The Employee Benefit Plan Audit Quality Center is the AICPA's latest initiative to help strengthen ERISA audits. In addition to working closely with the Department of Labor to recommend and assess the quality of work regarding employee benefit audits, the AICPA:

- Consults annually with the DOL on the Institute's Audit and Accounting Guide for employee benefit plan audits.
- Issues annual Audit Risk Alerts identifying industry, audit and accounting developments.
- Conducts two annual Employee Benefit Plan Conferences.
- Develops new and enhanced professional education courses dedicated to this practice area.
- Issues audit practice tools and checklists.

Joining the Center

Center membership is firm-based and voluntary. Member firms could hold themselves out as members of the Employee Benefit Plan Audit Quality Center to demonstrate their commitment to quality audit practices. To join, firms must enroll at the center's Web site and agree to adhere to the center's membership requirements. Member firms must:

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- Designate a partner responsible for the firm's employee benefit plan audit practice.
- Establish a firm-wide training program for the employee benefit plan audit practice.
- Create a firm-wide quality control program that addresses the employee benefit plan audit practice.
- Perform annual internal inspection procedures that include a review of the firm's ERISA employee benefit plan audit practice by individuals possessing current experience and knowledge.
- Make the firm's peer review or other practice monitoring report findings relative to the firm's employee benefit plan area of audit practice publicly available.

The annual dues schedule is based on the number of CPAs employed by the firm as of its most recent fiscal year end. Visit the center Web site (see end of article) for more information.

Membership Benefits

The center will provide its members with regular updates on current issues and trends. "Protecting the retirement savings of millions of Americans is a crucial responsibility of our profession," says Baker. "The center is a comprehensive resource to help firms establish best practices that will ensure the quality of employee benefit plan audits."

Specific membership benefits include:

- Timely, relevant and informative updates on current issues and events through e-mails, news alerts and Webcasts.
- A dedicated Web site covering the latest news and developments in EBP auditing.
- Access to the center's Forum, an online tool for sharing best practices, technical matters and other EBP issues.
- A single voice, representing member's interests, in performing quality employee benefit plan audits.

Membership Requirements

Baker says she expects that most CPA firms in the United States that audit employee benefit plans will already qualify for membership. Specific requirements include:

- An up-to-date knowledge of professional standards, rules and regulations and best practices by all EBP audit engagement personnel.
- An audit partner who has firm-wide responsibility for the quality of the firm's EBP audit practice.
- Continuing professional education requirements.
- Compliance with the center's published policies and procedures relating to the firm's ERISA employee benefit plan audit practice.
- Selection of EBP audits as part of the firm's peer review process.

"The public looks to CPA firms to ensure the integrity of employee benefit plans," says Baker. "The center is the best way we know to demonstrate our commitment to that goal."

Further information about the center can be found at:

www.aicpa.org/ebpaqc/homepage.htm

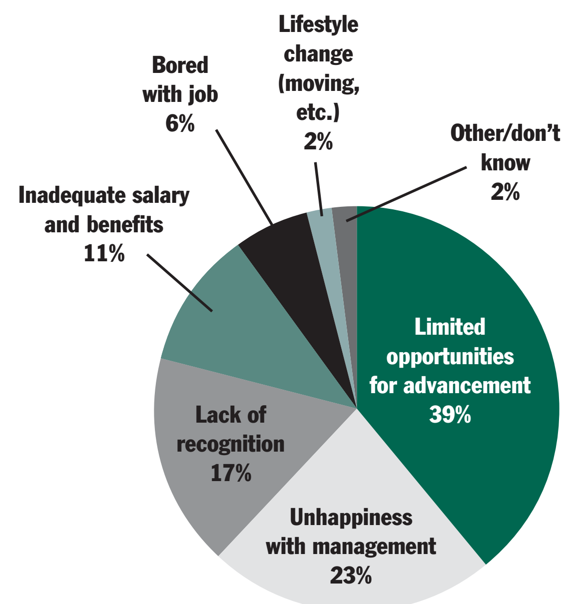
Advancement Options Key Issue for Employees, Survey Shows

Managers take note: If staff members believe the next rung in the career ladder is out of reach, you could be in danger of losing them, a new survey suggests. Thirty-nine percent of executives said good employees are most likely to quit due to a lack of advancement opportunities. Unhappiness with management was the second most common answer, cited by 23% of those polled by Robert Half International, Inc.

Max Messmer, chairman and CEO of Robert Half International, offered these tips to help managers retain valued staff members:

- *Gauge perceptions.* Gather feedback on the work environment and on changes that might enhance job satisfaction.
- *Reward extra effort.* People who often accept added responsibility or more work should be rewarded. If budgets are tight, consider a larger office or more flexible schedule.
- *Give kudos.* Praise doesn't have to be costly or time consuming, but it should be frequent and personalized.
- *Avoid staff burnout.* The best employees tend to have the most on their plate—and they're least likely to speak up when the workload is too heavy. If hiring more staff isn't an option, bring in temporary help during peak times.

Executives were asked, "Which of the following is most likely to cause good employees to quit their jobs?"



Source: Robert Half Management Resources

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IRS "Educational Letters" Cause Confusion Among Charitable Organizations

The Internal Revenue Service has been sending "educational letters" to charitable organizations that have contribution income, telling them that they are either disclosing an amount less than 5% of contributions or not disclosing any fundraising expenses in Part II of Form 990. In a communication to the director of the IRS Exempt Organizations Division, the AICPA Tax Exempt Organization Taxation Technical Resource Panel has alerted the agency to some confusion and anxiety among organizations that receive these letters and recommended possible changes to future correspondence.

The AICPA points out that exempt organizations may receive and properly report contributions and still have little or no fundraising expense. The Institute cites these examples:

- Volunteer fundraising labor is an in-kind contribution that is not reported on Form 990 and does not generate a reportable expense.
- Supporting foundations often incur the fundraising expenses for hospitals and universities.
- Grant revenue is reported with donations. However, GAAP classifies efforts to seek government funding as an administrative rather than fundraising expense.

The AICPA notes that the educational letters do not give recipients any concrete instructions, saying only that the IRS "will be inspecting your Form 990 to evaluate our educational efforts." According to the AICPA, "organizations are not comfortable 'doing nothing' in response to an IRS contact. We recommend that future letters specify any action the organization should take, and—at a minimum—include an IRS contact name and telephone number. We also suggest describing the purpose for these letters on the IRS Web site, and revising the Form 990 Instructions to direct organizations with low fundraising expenses to attach an explanatory statement." The Institute also offered to meet with IRS representatives to discuss possible improvements to this communications effort.

Crackdowns on Frivolous Cases

According to the Internal Revenue Service, in the past year the U.S. Tax Court imposed nearly $136,000 in penalties on 23 taxpayers for pursuing frivolous cases to delay tax collections.

"The courts are increasingly recognizing the need to impose penalties on taxpayers pursuing frivolous cases," said IRS Commissioner Mark W. Everson. "During the past year, we saw bigger penalties than we did for the previous two years combined. This is an important tool to help us maintain faith in the tax system. The IRS works diligently to protect taxpayer rights, and it is wrong for some taxpayers to abuse those rights by trying to delay collection for frivolous reasons."

The amount of penalties during the past year surpassed those assessed from 2001 until Mar. 2003, when the Tax Court imposed $126,000 in penalties on 38 taxpayers. The average penalty increased to $5,909 during the past year, from an average of $3,316 in the previous period.

The IRS Restructuring and Reform Act of 1998 set forth various taxpayer rights related to tax liens or levies, including the right to seek judicial review. The IRS says it usually may not enforce collection while an appeal is pending.

The Tax Court may impose sanctions of up to $25,000 on those who misuse their right to a court review merely to stall their tax payments. Last May, the court imposed this maximum penalty for the first time, finding in the case of *Aston* v. *Commissioner* that the taxpayer's groundless argument was primarily a delaying tactic, wasting the court's time and resources.

Tax professionals who use such arguments for their clients are also subject to penalties. In *Hillen* v. *Commissioner* [Docket #1441-03L (2004)], the Tax Court imposed a penalty of more than $14,000 against an attorney after finding his frivolous arguments caused the Court to incur more than 50 hours of unnecessary work. The Court said the attorney, who had clerked for the Court and worked at the IRS, "should have known better than to make the arguments that he did."

Appellate Courts affirmed the Tax Court's penalties in seven cases in the last year and began to add their own. The 5th Circuit Court of Appeals imposed an additional sanction of $4,000 in *Raynor* v. *Commissioner* after affirming the Tax Court's decision. Last month, the 1st Circuit imposed a $2,000 sanction in *Marino* v. *Brown* (357 F.3d 143) for intentionally challenging a collection action in District Court rather than Tax Court.

The IRS has updated its Web site document, The Truth about Frivolous Tax Arguments, with a section devoted to Collection Due Process cases. It presents 16 frivolous assertions, along with a summary of the law and relevant cases involving these false claims.

www.irs.gov

IRS Consumer Alert

The Internal Revenue Service has issued a consumer alert advising taxpayers to be wary of promoters offering a tax evasion scheme that misuses "Corporation Sole" laws. Promoters of the scheme misrepresent state and federal laws intended only for bona-fide churches, religious institutions and church leaders.

"This scheme shamelessly tries to take advantage of special tax benefits available to legitimate religious groups and church leaders," said IRS Commissioner Mark W. Everson. "Unscrupulous tax promoters always look for ways to game the system and prey on unsuspecting victims. Taxpayers should be on the look-out for these and other scams."

Scheme promoters typically exploit legitimate laws to establish sham one-person, not-for-profit religious corporations. Participants in the scam apply for incorporation under the pretext of being a "bishop" or "overseer" of the phony religious organization or society. The idea promoted is that the arrangement entitles the individ-

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ual to exemption from federal income taxes as an organization described in Section 501(c)(3) laws.

The IRS said that the scheme is being marketed through seminars with fees of up to $1,000 or more per person. Would-be participants purportedly are told that Corporation Sole laws provide a "legal" way to escape paying federal income taxes, child support and other personal debts by hiding assets in a tax-exempt entity.

While fraudulent Corporation Sole filings have turned up sporadically for many years, the IRS said it has seen signs of a new upsurge, with multiple cases seen recently in states such as Utah and Washington. The IRS is concerned about this increase and is taking steps to pursue Corporation Sole promoters and participants.

Used as intended, Corporation Sole statutes enable religious leaders—typically bishops or parsons—to be incorporated to ensure the continuation of ownership of property dedicated to the benefit of a legitimate religious organization. Generally, creditors of a Corporation Sole may not look to the assets of the individual holding the office nor may the creditors of the individual look to the assets held by the Corporation Sole. Currently, 16 states permit Corporation Sole incorporations. The IRS has suggested that people considering becoming involved in any kind of tax avoidance arrangement obtain expert advice from a competent tax adviser not involved in selling the arrangement who is independent of the arrangement's promoter. It recommends that taxpayers ask:

- Is the arrangement designed to hide income or assets?
- Is the arrangement designed to evade income taxes?

Answering "yes," or even "maybe," to either of these questions should raise red flags for taxpayers, the agency says.

Additional information on Corporate Sole and the rest of the "Dirty Dozen" tax scams and schemes is available on www.irs.gov.

Tax guidelines for churches and religious institutions can be found in Publication 1828, "Tax Guide for Churches and Religious Organizations." Clients who have specific questions on a tax scheme or who wish to report a possible scheme can contact the IRS at:

866/775–7474 irs.tax.shelter.hotline@irs.gov

IASB Moves Toward U.S. GAAP on Asset Disposals and Discontinued Operations

IASB update

The International Accounting Standards Board has issued requirements for asset disposals and discontinued operations. As set out in International Financial Reporting Standard (IFRS) 5, *Non-Current Assets Held for Sale and Discontinued Operations,* the requirements are another step toward the convergence of international and national standards, according to the IASB.

"Convergence of accounting standards around the world is one of the IASB's prime objectives," the board said. To that end, the IASB and the Financial Accounting Standards Board have initiated a joint short-term project aimed at reducing the differences between IFRSs and U.S. GAAP.

IFRS 5 is the first standard to emerge from this joint project. In general, the board says, the project focuses on differences that are not the subject of major current or planned projects by either board and are considered capable of quick resolution. The first phase of the project involves each board reviewing the other's current pronouncements, under the expectation that recent work on an accounting problem will have produced a good solution. IFRS 5 results from the IASB's review of FASB Statement No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets.*

IFRS 5 requires measurement of assets that are expected to be sold and meet specific criteria at the lower of carrying amount and fair value less costs to sell. Such assets should not be depreciated and should be presented separately in the balance sheet. It also requires operations that form a major line of business or area of geographical operations to be classified as discontinued when the assets in the operations are classified as held for sale. These requirements on assets held for sale and the timing of the classification of discontinued operations are substantially the same as the equivalent requirements in U.S. GAAP, the board notes. The type of operation that can be classified as discontinued is narrower than under U.S. GAAP, but the IASB says it intends to continue to work with the FASB to achieve convergence.

The IASB also released IFRS 3, *Business Combinations.*

The IASB said that the joint project is expected to result in several more standards. It noted that the FASB has recently published exposure drafts on four subjects: the measurement of asset exchanges; the treatment of changes in accounting policies and estimates; the measurement of inventories; and the calculation of earnings per share. More information on the short-term convergence project is available on each board's Web site.

www.iasb.org

www.fasb.org

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The CPA Letter public practice supplements encourage readers to share information and experiences through bylined articles on subjects of interest to your fellow practitioners. Moreover, if the topic fits our editorial calendar and your article is featured, you may claim continuing professional education credits for the time you spent preparing the article (in accordance with the Joint AICPA/NASBA Statement on Standards for Continuing Professional Education, revised as of Jan. 1, 2002). The first step is to submit article topics for approval to:

adennis@aicpa.org