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CAPITOL ACCOUNT

A Bimonthly Report on Federal Legislative Matters Affecting CPAs

AICPA WINS FIRST ROUND IN CFO FUNDING BATTLE

Efforts continue to persuade Congress to appropriate monies for the law

Thanks to the efforts of CPAs who participate in the Institute's Key Person Contact Program, the AICPA was successful in helping stop an effort to gut the Chief Financial Officers Act of 1990.

CPA Key Person Contacts helped defeat effort to gut CFO bill.

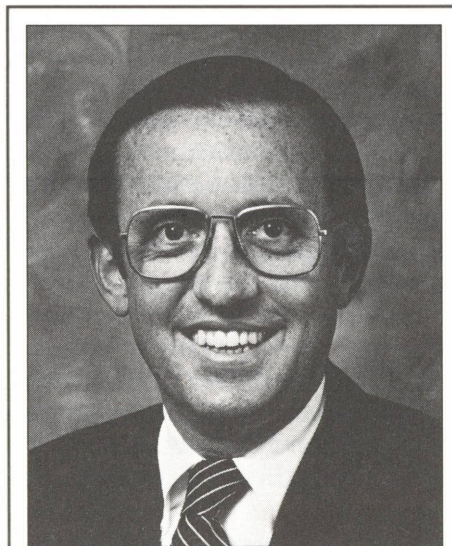
The Act established positions for financial officers in 23 government agencies including the U.S. Office of Management and Budget, and would help improve the federal government's financial management systems.

In order to implement the Act, funding must be provided, or not prohibited, for various federal agencies through the Congressional appropriations process. Rep. Jamie Whitten (D-MS), the chairman of the House Appropriations Committee, announced in May that he would attempt to bar funding for the Act, which he said creates an unnecessary layer of government.

The AICPA and other interested parties sided with the Bush Administration against Chairman Whit-

ten's move to deny funding. The AICPA wrote all members of the U.S. House of Representatives explaining the importance of funding the CFO positions established by the law. The Institute also wrote all CPAs participating in the Key Person Contact Program for the U.S. House of Representatives and asked that they let their representatives

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John E. Hunnicutt, who joined the AICPA Washington staff as vice president-federal affairs on July 1, 1991.

(See story on page 4)

JULY/AUGUST 1991

AICPA PROPOSES PLAN TO AMEND FISCAL YEAR FILING

A proposal designed to reinstate the use of fiscal years by partnerships, S corporations, and personal service corporations has been developed by the AICPA in consultation with state CPA societies. The proposal would ease the year-end workload crunch CPAs have faced since the Tax Reform Act of 1986 forced most small businesses onto the calendar year.

In April, the AICPA held a meeting with representatives of state CPA societies to discuss what should be included in the plan. The proposal reflects those recommendations. Efforts are now underway to have the proposal introduced in the U.S. House of Representatives and Senate, and introduction is expected shortly after the August Congressional recess.

As soon as it is appropriate we will be sending Action Alerts to the Key Person Contacts for members of the House Ways and Means Committee and Senate Finance Committee to request their assistance in building support for the legislation among members of the committees.

For a copy of the proposal, write to AICPA, Fiscal Year Reform, 1455 Pennsylvania Avenue, N.W., Washington, D.C. 20004-1007. ★

★ INSIDE FOCUS ★

Legal liability continues to be a serious concern for the accounting profession. True, the crisis situation that existed in the liability insurance market a few years ago has subsided. Liability insurance is, for the present at least, more readily available, albeit at a "premium" price. (Excuse the pun.) However, the number and size of legal claims against accounting firms of *all* sizes has continued to grow.

This trend is fueled by a court system that seems intent on adopting a concept of liability where every injury or harm must be redressed or compensated, regardless of duty to the injured person. More and more courts are looking to those parties associated with an event or enterprise to provide for recovery, regardless of the degree or proportion of fault they may bear. CPA firms are a prime target to help pay for this "social" approach to liability. The situation is in large part a result of the "deep pocket" syndrome where CPA firms are sued because they are the only or deepest pocket left in the aftermath of a failed business.

The legal costs and expenses of defending lawsuits, however baseless, accrue at an alarming rate. In many cases these factors may promote costly settlements by CPA firms of all sizes. An indication of this is that the loss ratios under the AICPA liability insurance plan, which insures small accounting firms, have been greater than 100 percent. And, according to a

Business Week article last year, the largest CPA firms had paid nearly \$180 million in settlement of mostly audit lawsuits since 1980.

In many instances, the issues in lawsuits are so complex and the stakes so high that it is extremely burdensome and risky for CPAs to litigate the matter. When the potential for treble damages under federal and state RICO statutes is added to the equation, the settlement imperative becomes even more compelling.

The AICPA has been working on various measures to address legal liability for the profession. Much of the focus to date has been at the state level. The AICPA Accountants' Legal Liability Subcommittee, working with the state CPA societies, has initiated tort reform proposals in certain major areas of concern, including replacing the rule of joint and several liability and adopting a standard of privity for CPAs. While the task of reforming tort laws is a formidable one, the Subcommittee has had a considerable degree of success. This is due in no small part to the vigorous efforts of the state CPA societies and the able leadership of Subcommittee Chairman Bob Mednick.

At the federal level, we have also focused on ways to help reduce the legal liability burden of the profession. Our efforts to reform civil RICO are the most visible. However, many of the issues on our legislative agenda are intrinsically tied to legal liability.

This includes matters such as increased auditor responsibility, simplification of the tax code and telemarketing fraud, to name a few.

We continue our efforts and we are considering new approaches to effectuate positive changes to federal and state tort laws. The issue of legal liability has the greatest potential for harm to the well-being of our profession. It's an issue that affects all firms regardless of size or the types of services they provide.

We will keep you advised as we develop new legislative strategies to deal with this serious issue.

WASHINGTON STAFF

When I took on the position of leading the Institute's office here in Washington, D.C., I made a commitment to establish the best staff possible to represent the accounting profession and to leave this office in good hands upon my departure. I'm happy to say that we have made tremendous progress toward that goal.

I am extremely pleased that John Hunnicutt (whose background is described elsewhere in this newsletter) has joined our staff and will succeed me when I retire next year. Having worked with John for the past five years, I am confident of John's abilities and his appreciation for the issues that confront our profession. Then, too, I know him to be a person of the highest personal qualities.

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know how important it is to fund the new law.

On June 18, 1991, Reps. John Conyers, Jr. (D-MI) and Frank Horton (R-NY) offered an amendment to the Treasury-Postal Service appropriations bill to restore funding for the CFO Act. The House voted 341 to 52 in support of the amendment.

In acknowledgement of the important role the AICPA and its Key Person Contacts played in this effort, Frank Hodsoll, executive associate director and chief financial officer for the Office of Management and Budget, wrote to AICPA Vice President for Legislative Affairs J. Thomas Higginbotham to thank him for his assistance.

"Many thanks for all your help on CFO...It worked, and the AICPA

Spending restrictions could still jeopardize funding necessary to implement the CFO law.

was a key part. I look forward to working with AICPA in the months ahead as we try to move the Federal Government forward in financial management," Mr. Hodsoll said.

The House vote was an important vote because it demonstrated the overwhelming support that exists in the House for implementation of the Act. However, the spending restrictions placed on federal lawmakers by last year's budget agreement are forcing them to make funding choices about many desirable programs. We cannot expect that the CFO Act will automatically be funded just because it is a good or popular cause.

We are, therefore, continuing our efforts to ensure that sufficient

funding is provided to implement the Act. At present, the U.S. Senate is the scene of activity for the appropriations process and we are focusing our attention there. Letters have been sent to U.S. Senators urging them to support funding for the CFO Act and to oppose including language in any appropriations bill that would prohibit CFO funding.

Key Person Contacts for the members of the Senate Appropriations Committee have also been asked to help. ★

HOUSE JUDICIARY COMMITTEE APPROVES RICO REFORM BILL

The House Judiciary Committee approved H.R. 1717, legislation to amend the Racketeer Influenced and Corrupt Organizations (RICO) Act by voice vote on July 30, 1991. Before voting to send the bill to the full House, the Judiciary Committee amended it in two significant ways.

First, an amendment by Rep. Dan Glickman (D-KS) reformulates the gatekeeper mechanism in H.R. 1717. The unamended gatekeeper provision allowed federal judges to determine whether the plaintiff had shown the court that the defendant had been criminally convicted of the wrongdoing underlying the civil claim or had met three tests showing that the defendant was a major participant in the predicate act and that RICO's treble damage remedy was needed in order to deter future egregious conduct. The judge, therefore, could dismiss RICO charges he did not believe met these conditions before the case proceeded to trial. Under Rep. Glickman's amendment, a jury, and not a judge, is required to determine all questions of facts and spell out the elements of proof for a civil

RICO violation.

Second, an amendment by Rep. Rick Boucher (D-VA) expands H.R. 1717's presumption of "egregious criminal conduct" for cases involving failed savings and loans. The category of failed institutions is expanded from essentially savings and loans to include all "financial institutions" as defined in section 20 of Title 18 of the U.S. Code. This definition includes, among other financial institutions, all banks and bank holding companies. Rep. Boucher's amendment was offered as a substitute for a more expansive "financial institutions" amendment offered by Rep. John Conyers (D-MI).

AICPA Key Person Contacts for members of Congress serving on the House Judiciary Committee were asked at the end of June to urge committee members to support H.R. 1717 as it was approved by the Judiciary Subcommittee on Intellectual Property and Judicial Administration. We thank those Key Persons who assisted in our lobbying efforts directed at the committee.

It is unclear what the effect of the committee's acceptance of the Glickman and Boucher amendments will be on the bill's chances for passage by the full House. Supporters of H.R. 1717 said Speaker of the House Tom Foley (D-WA) has promised to bring the bill before the full House for a vote. However, opponents of civil RICO reform, who are sure to try to offer weakening amendments, reported that some members of Congress who had supported H.R. 1717 do not support the amended version.

We are presently analyzing the amended bill to determine how it will impact accountants. We will be sure to keep you updated on developments. Your assistance as Key Person Contacts may also be requested if H.R. 1717 comes to the House for a vote. ★

TAX SIMPLIFICATION BILLS INTRODUCED; AICPA TESTIFIES IN SUPPORT OF LEGISLATION

The chairmen of the tax writing committees in the U.S. House of Representatives and Senate introduced identical bills to simplify the tax code on June 26, 1991. The bipartisan legislation, H.R. 2777 and S. 1394, would modify a broad variety of personal and business sections of the tax code, but is not a sweeping reform measure.

Rep. Rostenkowski (D-IL), the chairman of the House Ways and Means Committee, also introduced a smaller simplification proposal, H.R. 2775. The bill includes provisions about which he and Senate Finance Committee Chairman Lloyd Bentsen (D-TX) had not agreed, but upon which they continue to seek a compromise.

At a House Ways and Means Committee hearing on July 23, 1991, the chairman of the AICPA Tax Executive Committee, Leonard Podolin, testified in support of the bills. He emphasized the need to simplify the tax code if we are to preserve our voluntary compliance tax system.

Mr. Podolin also provided the members of the committee with an assessment of some of the provisions included in H.R. 2775 and H.R. 2777. Among the provisions that he said the AICPA supports are: the rollover of gain on sale of principal residence; the simplified foreign tax credit limitation; the repeal of the supplemental young child credit; and the creation of a safe harbor for determination of a principal residence in a divorce or separation. Mr. Podolin also expressed support for proposed changes in the S corporation area and recommended additional improvements.

The AICPA presented testimony at a hearing on July 29, 1991 before the House Ways and Means Sub-

committee on Select Revenue Measures in opposition to provisions relating to the reporting requirements of large partnerships, tax compliance by large partnerships, and the TEFRA partnership audit and collection rules.

While Chairmen Rostenkowski and Bentsen are committed to tax simplification, and the legislation has bipartisan backing, its enactment is not assured. As Chairman Rostenkowski explained to the members of the AICPA Tax Division in May, he is determined that the bill remain clean. He has said he will kill the measure if it becomes a vehicle for items unrelated to simplification. The legislation must also maintain its revenue neutrality. ★

JOHN HUNNICUTT JOINS AICPA WASHINGTON STAFF

John E. Hunnicutt has joined the AICPA Washington staff as vice president - federal affairs, and will be the senior officer in the Washington office when B.Z. Lee, deputy chairman for federal affairs, retires next year. Mr. Hunnicutt comes to the Institute from KPMG Peat Marwick, where he was responsible for federal government relations.

In discussing his new position with the AICPA, Mr. Hunnicutt noted, "It's great to be associated with such a solid, effective staff. The legislative program of the Institute has made significant progress under B.Z. Lee's leadership. I hope to continue and expand on the momentum he has initiated in the Washington office. My first objective is to gain an understanding of the perspectives and concerns of

the state societies, their executive directors, and the Key Person Contacts. I also plan to spend as much time as possible visiting with AICPA committees, especially the Private Companies Practice Section and Industry Committee. The goal is to ensure their confidence that in Washington the Institute is mindful of their interests."

Prior to assuming his position with KPMG Peat Marwick, Mr. Hunnicutt held a variety of government positions including as executive assistant to Senator Richard Schweiker and as executive assistant to the Assistant Treasury Secretary for Legislative Affairs. He is a Marine Corps veteran and has also served as president of the Business-Government Relations Council, a member of the Board of Trustees of the Congressional Economic Leadership Institute, and a member of the Public Affairs Council. Mr. Hunnicutt is also a former chairman of the AICPA's Federal Legislative Task Force. ★

**Key Person
Contacts
Get
Results—**

**Thanks For
Your Help!**

(Inside Focus continued from page 2)

Many of you will have an opportunity to meet John in person. The plan is to use this transitional period for John to interact with as many committees, state societies and members as possible.

Another positive note for our staff is the recent promotion of

John Sharbaugh to Vice President—State Legislation and Legislative Relations. This is a recognition of the job John has done for us in enhancing our Key Person Program, our efforts in state legislation, and our office's relations with state societies.

Along with our other Vice Presidents—Tom Higginbotham, Joe

Moraglio and Don Skadden—they provide a senior staff in the Washington office of which we can be extremely proud. I can assure you that they and all the staff are conscientious and work hard on your behalf. I'm very proud of our team. You can be too. ★

—**B.Z. Lee,**
Deputy Chairman Federal Affairs

IN PROFILE: REP. COLLIN C. PETERSON (DFL, MINNESOTA)

Second in an occasional series of articles highlighting individual members of Congress.

Collin C. Peterson is the newest CPA member of Congress, representing Minnesota's Seventh Congressional District. He is a member of the Democratic-Farmer-Labor Party, which has its roots in the 1920s and 1930s when the Farmer-Labor Party was a strong third party in Minnesota.

Rep. Peterson founded his own accounting firm in 1968 and began his political career in 1976 when he was elected to the Minnesota State Senate. He continued his service as a state senator until 1986.

After ten productive years in the Minnesota State Senate, Rep. Peterson is a seasoned legislator and politician. He was a leader in the Minnesota Senate on tax issues, as well as on environmental and conservation concerns and was an outspoken advocate for farmers and small business owners. He fought for and won a reduction in property tax rates and in corporate tax rates for small businesses. Rep. Peterson also led a successful fight for tax simplification.

While he has found some of the issues in Washington and Minnesota to be similar, he said the U.S.

House of Representatives is "a bigger ball game" with different rules. First, he is 1 of 435 players instead of 1 of 67. That makes it more difficult to accomplish anything, he noted. Second, the U.S. Congress meets all year instead of for a set number of months each year. The resulting slower pace of the legislative process is particularly frustrating, he said. Third, unlike most states, the federal government does not have a balanced budget. Rep. Peterson said he also has been struck by the "real competing geographic interests."

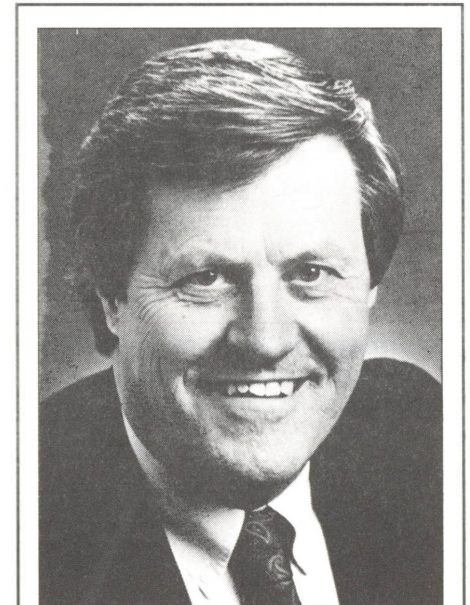
"Overall, it's a far more complex environment than what I am accustomed to working in," he said.

However, persistence is a valuable trait for any legislator to possess and Rep. Peterson has it in abundance, as demonstrated by his efforts to be elected to Congress. His defeat last year of Rep. Arlan Stangeland, who had held the seat since 1977, was his fifth attempt to beat Rep. Stangeland. He was almost successful during his third attempt in 1986 when he lost by only 121 votes. Rep. Peterson explained his persistence by saying "until it balances you can't go home."

His special expertise gained as a CPA has already led to requests for

assistance from other members of the House, and pension legislation is one of the areas into which he has delved. However, Rep. Peterson, who plays the guitar and sings, joked that he may be better known among his Congressional colleagues as a musician than as a CPA.

Rep. Peterson's advice to CPAs who are Key Person Contacts is "to just go see" their members of Congress. He said members of Congress are accessible and enjoy meeting with their constituents. ★



Collin C. Peterson
Elected to House: 1990
Occupation: Certified Public Accountant; Minnesota State Senator
Committee Assignments: Agriculture, Government Operations

BANK FINANCIAL REPORTING REQUIREMENT EXPANDED BY HOUSE BILL

The House Banking Committee has approved a Bank Insurance Fund recapitalization and financial institutions reform bill calling for expanded financial reporting requirements for certain banks with assets over \$150 million. The new requirements would affect bank accountants, auditors, and management, but would not necessarily apply to subsidiaries of bank holding companies. Federally insured depository institutions would be affected to varying degrees, depending on their size and the decisions of federal regulators implementing the requirements. The bill would be effective for fiscal years beginning after January 1, 1993.

Because the measure has also been referred to four other House committees that have jurisdiction

over various parts of the bill, the full House will not consider the bill until sometime this fall. The deadline for the four committees to complete their work on the bill is September 27, 1991. Passage of the bill by the House is not assured because of controversy over expanded powers granted to banks under the bill.

In the Senate, bank reform legislation was proposed that did not include any audit provisions. Senator Tim Wirth (D-CO) offered an amendment to the bill during committee markup on August 1, 1991 that closely mirrors the auditing language included in the House bill. The committee adopted the amendment by a 15 to 6 vote.

The Senate measure also requires the Federal Financial Institutions

Coordination Council, in consultation with the Securities and Exchange Commission, to develop accounting principles for insured institutions that result in accurate financial statements and facilitate effective supervision. Bank agencies are also charged by the bill to prescribe accounting standards that are no less stringent than GAAP and are permitted to prescribe standards that are more conservative than GAAP.

We will continue to work to assure that any accounting and auditing provisions adopted are in accordance with GAAP and GAAS, and are practicable and within the competency of CPAs to perform.

A copy of the House bill's provisions relating to expanded financial reporting requirements is available by writing to AICPA, Banking Bill Amendments, 1455 Pennsylvania Avenue, N.W., Washington, D.C. 20004-1007. ★

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