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CAPITOL ACCOUNT

A Monthly Report on Federal Legislative Matters Affecting CPAs

April 1992

FEDERAL REGULATION OF PROFESSION PROPOSED

A bill to federally regulate the financial condition of insurance companies would take away the profession's right to set accounting and auditing standards. Rep. John Dingell (D-MI) in his bill would, in essence, regulate the accounting profession.

The objectionable provisions in the Federal Insurance Solvency Act of 1992, H.R. 4900, include the following:

- Accounting standards could be set by the newly created Federal Insurance Solvency Commission (Commission) that are "different or additional to" those set by the Financial Accounting Standards Board. The Commission also could establish auditing "standards and procedures to be followed by independent accountants" in complying with the requirements of this legislation. These provisions would supplant the current system of private sector standard setting.

- Non-CPAs would be permitted to perform audits and to express opinions on the financial statements of insurers or reinsurers. The Commission could also establish "by regulation the standards and procedures by which a person who is not a certified public accountant may become qualified to act as an accountant" under H.R. 4900. This provision dramatically alters the present system whereby State Boards of Accountancy license those authorized to offer auditing services.

- The independent accountant

would be required to report directly to the Commission whenever the accountant has substantial reason to believe that the company's financial records reveal material misrepresentations or illegal acts. The AICPA believes it should be the responsibility of the company's management to make such disclosures to the Commission, with the independent accountant providing back-up reporting only in the event management fails to provide the appropriate disclosures.

- The language limiting auditors' liability under H.R. 4900 is inadequate.

We do not expect that H.R. 4900 will make it to the House Floor for a vote this year. However, the

AICPA sees the bill as a threat to the profession. Rep. Dingell, who is the powerful chairman of the House Energy and Commerce Committee, is certain to reintroduce the bill in the next Congress. We anticipate lots of activity on the bill then. The AICPA's Insurance Companies Committee and others in the Institute will be working on the problem in the meantime. For the remainder of this Congress, Rep. Dingell will continue to hold hearings on solvency in the insurance industry. Hearings may also be held on H.R. 4900 by the Energy and Commerce Subcommittee on Commerce.

More news on this issue is likely next month. ★

GAO RECOMMENDS PENSION AUDIT CHANGES

A U.S. General Accounting Office (GAO) report released recently recommends changes in pension plan audits that reflect positions taken by the AICPA.

The recommendations concern audits of pension plans under the Employee Retirement Income Security Act of 1974 (ERISA), and would require amendment of ERISA. As a result, legislation is expected to be introduced in Congress.

Three GAO recommendations that the AICPA anticipates will be included in the legislation are:

- Require full scope audits, instead of permitting the plan

administrator to direct audit firms to perform limited scope audits. The AICPA has supported full scope audits since 1978.

- Require auditors to report fraud and serious ERISA violations promptly after discovery to the U.S. Department of Labor (DOL) if plan administrators do not do so. The AICPA agrees that the plan administrator has the primary responsibility to report to the DOL. Direct reporting by auditors to the DOL is a concern to the AICPA because disclosures by auditors of matters other than those affecting the auditor's opinion on a plan's financial statement are generally precluded

continued on page 2

AICPA BACKS TAX COURT PRACTICE BILL

The AICPA urges Congress to enact legislation to permit CPAs to represent taxpayers before the U.S. Tax Court.

H.R. 1485 would allow CPAs and enrolled agents to practice before the Tax Court in certain cases involving less than \$10,000. Current law prohibits the Tax Court from excluding individuals from practicing before the Tax Court based on profession. However, the Tax Court is permitted to establish separate qualifying rules for attorneys and non-attorneys. Attorneys are automatically allowed to practice before the Tax Court. The rules for non-attorneys require that they pass a written exam testing courtroom procedures and knowledge of tax law.

Few CPAs choose to practice before the Tax Court, but they know only too well the frustration and extra

expense that their clients incur when they are forced to hire an attorney to represent them in small cases before the Tax Court. Indeed, some taxpayers choose to represent themselves rather than hire an attorney. The consequences of this self-representation can be deterrence to taxpayers in pursuing legitimate issues and inefficiency in moving cases through the Tax Court. CPAs are generally better able to present the relevant facts and issues to the Tax Court.

The AICPA supports H.R. 1485 as a remedy to this problem. In a letter to Rep. Leon E. Panetta (D-CA), the sponsor of H.R. 1485, the AICPA states it "supports enactment of your bill...We believe this will help reduce the cost of appeals for smaller taxpayers and will help the Tax Court handle cases more

expeditiously...Thank you for introducing H.R. 1485. We believe the bill serves the taxpaying public and the tax system in general."

Thirteen Members of Congress are co-sponsors of H.R. 1485: Reps. Dan Burton (R-IN), Ronald Dellums (D-CA), Sam Gibbons (D-FL), Wayne Gilchrest (R-MD), Andy Ireland (R-FL), Joe Kolter (D-PA), Bill Lowery (R-CA), David Martin (R-NY), Lewis Payne (D-VA), Collin Peterson (D-MN), Owen Pickett (D-VA), Don Sundquist (R-TN) and Bill Zeliff (R-NH).

Unfortunately, the House Ways and Means Committee has not acted upon this measure and it was not included in the tax bill passed by the Congress earlier this year and subsequently vetoed by President Bush. However, Rep. Panetta is still working to have the bill enacted and the AICPA continues to support H.R. 1485. ★

GAO CHANGES *(from page 1)*

by the auditor's ethical and legal obligation of client confidentiality.

■ Require auditors to participate in a peer review program. The AICPA already requires peer review of its members and has suggested that the DOL accept the AICPA's programs, rather than issue new, costly, and unnecessary regulations.

This GAO report follows up three earlier GAO reports, the first released in 1987, that identified some audit and reporting deficiencies.

The AICPA supports efforts to assure that pension plan participants receive their benefits. However, an important point the AICPA has stressed in Congressional testimony and in meetings with GAO and DOL

officials is that audit deficiencies do not necessarily correlate with plan mismanagement or beneficiary risk. For example, assets available for benefits are not adversely affected by the lack of a footnote disclosure in the administrator's report or nonperformance of an audit procedure by an independent accountant. Instead, the factors that can place a plan participant's benefits at risk are beyond the scope of audits of financial statements or the ability of independent accountants to influence. The most prominent of these factors is the quality of investment judgments by plan administrators or investment fiduciaries.

The AICPA is very concerned that the Pension Benefit Guarantee Corporation could fail and require a

taxpayer bailout. That, in turn, could lead to outcries from Congress and the public similar to those experienced in the savings and loan crisis of "Where were the auditors?". It could also result in more lawsuits being filed against independent accountants who had issued clean opinions on severely underfunded plans. Therefore, the AICPA's Employee Benefit Plans Committee is working on problems confronting the pension industry and exploring what means can be utilized to protect plan participants.

We do not know when the legislation will be introduced amending ERISA, but we will continue our work in this area. We will advise you when introduction has occurred. We may also need your assistance in contacting your elected officials. ★

BLUEPRINT EXPOSED ON TAX SIMPLIFICATION DAY

The AICPA Blueprint for Tax Simplification was exposed for comment on Tax Simplification Day by the AICPA. The goal of the Blueprint is to promote the writing of tax legislation and regulations in the simplest way possible.

The AICPA has taken the lead in pushing for tax simplification by submitting simplification proposals to Congress and the Administration, by testifying in Congress, by waging a national campaign to raise public awareness about the need for tax simplification, and by declaring April 16 annual Tax Simplification Day.

The Blueprint was exposed at a national press conference in Washington, D.C. Copies also were sent to all Members of Congress, the staff of the House Ways and Means and Senate Finance Committees, and key officials at the IRS and Treasury Department. The AICPA welcomes comments on the concepts and approaches contained in the document.

The Blueprint examines the factors contributing to complexity and offers measurement instruments for evaluating a proposal's impact on complexity or simplicity.

AICPA officials stressed the importance of simplifying the tax

system in order to preserve the United States' voluntary compliance tax system. Robert M. Brown, chairman of the AICPA's Tax Simplification Committee which prepared the Blueprint, noted that more than half of U.S. taxpayers pay a preparer to do their taxes. He said that the estimated cost to taxpayers for this work is between \$20 billion and \$40 billion and that complexity jeopardizes our entire voluntary compliance tax system.

Other problems the AICPA identified concerning complexity include taxpayers' perceptions that the law is unfair, difficulty in administering the law, and its interference in making economic decisions.

State Societies Participate

Almost 20 state CPA societies also held Tax Simplification Days and introduced the Blueprint in their states. The state societies publicized the day in a variety of ways. In Connecticut, a fun run honored IRS and state tax employees prior to a press conference. The South Carolina Society of CPAs held a press conference with the IRS and the state Tax Commission. In Wyoming, the Governor signed a proclamation declaring April 16 Tax Simplification Day.

Hope for the Future?

The profession's efforts to raise the public consciousness about the importance of complexity have made a difference. Congress earlier this year demonstrated bi-partisan support for enacting tax simplification. The Congress included many tax simplification provisions in the tax bill it passed in March that was then vetoed by President Bush. However, the tax simplification bills from which those provisions were drawn are still viable pieces of legislation and we hope they will be included in any other tax bill the Congress considers later this year.

Thank you all for your help in talking to your Members of Congress about the importance of tax simplification and for continuing those efforts in your states. In order to reduce complexity, we have to have a visible constituency communicating this need to government officials. You are helping to build that constituency! ★

Copies of the Blueprint are available by writing: Blueprint for Tax Simplification, AICPA, 1455 Pennsylvania Avenue, N.W., Washington, D.C. 20004-1081 or calling 202/737-6600. We are anxious to have your comments or suggestions about who else we should send it to for comment.

CPAs in POLITICS

Three more CPAs have entered Congressional races. In Utah, Jerry Crouch is running in Utah's First Congressional District. He is a partner with Crouch, Wood, Dahlquist, P.C. in Ogden, UT. Crouch is running as a Democrat and faces two other Democrat opponents in the September 8 pri-

mary. The seat presently is held by Rep. James V. Hansen, a Republican who is serving his sixth term.

In Georgia, two CPAs and four others are competing to be the Republican candidate in the newly created Fourth Congressional District. The two CPAs are Tom Phillips and Richard Robinson. The new Fourth District seat is an open seat; no incumbent is seeking elec-

tion from this Georgia district. Phillips, of Lilburn, GA, presently serves as the Minority Leader of the Georgia State Senate; he has served five terms in the Georgia Senate and four terms in the Georgia House of Representatives. Robinson, of Conyers, GA, is the chief executive officer of Snapper.

The primary is scheduled for July 21. ★



Spotlight on Key Persons

Key Person: Ralph L. DePanfilis, R. L. DePanfilis and Co.

Contact For: Rep. Christopher Shays (R-CT)

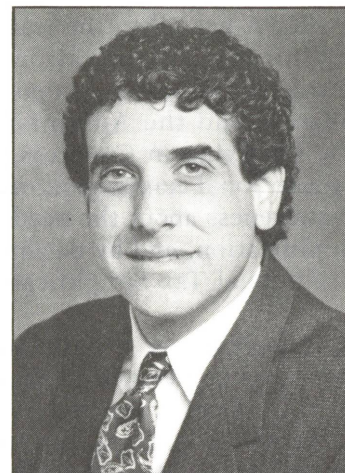
Form of Relationship: Family friend

Number of Years: 6

Comments About Being a Key Person: "I believe the Key Person Program is a very effective means of having a say in what government does." To keep in touch with Rep. Shays, Ralph makes several visits to his office in either the district or Washington each year and serves as a volunteer and contributor to the campaign. Ralph says, "Although money doesn't buy happiness, it does attract attention." Ralph also emphasized the importance of developing a relationship with Congressional staff members. "An area I utilize a lot as a Key Person Contact, but one that may be easily overlooked, is the importance of working with the legislator's staff," he said. "I find my relationship with the staff to be a key element in communicating my thoughts, ideas, and opinions to the legislator. I offer unlimited assistance to the staff in any way I can and I encourage them to utilize me as a resource. In order to be effective, I must be pro-active and not passive. If you want to have an effect, if you want to have an impact, and you want to be heard, you need to be willing to make the commitment to work toward that goal."

Ralph also is the Key Person Coordinator for the Connecticut Society of CPAs.

Other AICPA Activities: Serves as a member of the Area 1 State Legislation Planning Subcommittee.



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