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AICPA "The Measure of Excellence"

# CAPITOL ACCOUNT

A Monthly Report on Federal Legislative Matters Affecting CPAs

May/June 1992

## PROFESSION PROGRESSES IN IMPORTANT TAX AREAS

The accounting profession is making progress in solving the work compression problem and in correcting the new, unworkable estimated tax law. Legislation now before Congress includes the AICPA proposals to help ease the workload compression problem caused by the Tax Reform Act of 1986 and to modify the new estimated tax law.

### In the House

The AICPA's fiscal year and estimated tax proposals are included in the House Ways and Means Committee's urban aid measure, and would help pay for the cost of the assistance provided by the bill. Both provisions are identical to those passed in March by Congress as a part of H.R. 4210, which was vetoed by President Bush. In addition, the fiscal year proposal is included in the unemployment compensation bill approved by the House, H.R. 5260.

The fiscal year proposal would permit partnerships, S corporations, and personal service corporations to elect any year-end for tax purposes, provided the entities meet certain conditions that are aimed at ensuring the U.S. Treasury Department does not lose cash flow as a result of the legislation being enacted. The conditions are: 1) an initial payment by September 15 of the year of change; 2) a required payment each May 15 that the election is in effect; and 3) that the books are main-

tained and annual financial statements prepared for the same period as that adopted for tax purposes.

The estimated tax proposal would replace the current law with a simple 115 percent of prior year's tax "safe harbor" for all taxpayers. Generally, an individual would not have an underpayment of estimated tax if he or she makes timely estimated tax payments at least equal to: 1) 115 percent of the tax liability of the prior year, or 2) 90 percent of the tax liability of the current year.

### In the Senate

The Senate Finance Committee included the Institute's fiscal year proposal in its version of H.R. 5260, legislation to extend unemployment compensation. An amendment to the unemployment bill offered by Senator Bob Dole (R-KS) included the estimated tax proposal, as well as the fiscal year proposal. Unfortunately, the Finance Committee rejected Senator Dole's amendment.

### Tax Simplification Included

Tax simplification provisions, generally as included in H.R. 4210, are part of the House Ways and Means Committee's urban aid package, as are a host of other tax provisions. Other provisions include: taxpayer rights legislation, passive loss relief for the real estate industry, corporate relief from the alternative minimum tax, and repeal of the lux-

ury tax on boats, airplanes, jewelry, and furs, with indexation of the threshold for automobiles.

### Bill Includes Extenders, Too

Temporary extension of a variety of expiring tax provisions, commonly known as "extenders," is also incorporated in the urban aid package approved by the Ways and Means Committee. Those provisions extended for 18 months are: the research and development tax credit, exclusion for employer-provided education benefits, exclusion for group legal services, and repeal of the alternative minimum tax preference for gifts of tangible and intangible appreciated property. The 25 percent deduction for health insurance expenses of the self-employed would be extended for only 6 months.

### What's Ahead?

Skilled political maneuvering will be required to get either the urban aid package or the unemployment bill signed by President Bush. Congressional leaders and Administration officials are negotiating, but a veto of either bill is possible.

We continue to be optimistic, however, that the Institute's fiscal year and estimated tax proposals will be enacted as a part of some piece of legislation this year because both proposals would raise revenues and could be used to offset the cost of some spending program. ★

## CPAs LOBBY REPRESENTATIVES IN WASHINGTON

The Kansas Society of CPAs and the Pennsylvania Institute of CPAs brought Key Person Contacts to Washington, D.C., to meet with their elected officials in May.

Seven CPAs from Kansas, including the State Society's president, traveled to Washington for a two-day series of meetings with their members of Congress. The CPAs discussed important tax issues and pending legislation that would grant new standard-setting authority to the Securities and Exchange Commission with members of the Kansas Congressional delegation. The group met with Senator Bob Dole (R-KS) and his key staff members and told them how important it is to the profession that Congress modify current law to ease the workload imbalance caused by the

Tax Reform Act of 1986 and how onerous a burden the new estimated tax rules place on taxpayers and tax preparers. The bill later introduced by Senator Dole to extend unemployment benefits includes provisions addressing the workload compression and estimated tax problems.

The centerpiece of the Pennsylvania Institute of CPAs (PICPA) annual, day-long program was a luncheon for Pennsylvania members of Congress. Time was provided before the luncheon for CPAs to meet with their representatives individually. In both situations, the 35 participating CPAs had an opportunity to discuss such critical issues as litigation reform and tax simplification with elected officials and their staff members.

The PICPA invited all PICPA officers, council members, Congressional Key Contacts, and members of its Legislation and Federal Tax Committees to attend the Washington program. Those

CPAs attending represented a cross section of the groups invited.

The AICPA thanks the Kansas Society and the PICPA for sponsoring these programs. Such individual efforts by state societies help supplement the AICPA's Congressional Luncheon Program in which Key Person Contacts are regularly brought to Washington, D.C., to meet with their Members of Congress. The AICPA encourages other states to conduct similar programs.

### AICPA Luncheon Program

CPAs from Iowa and Texas have also visited Washington this year to participate in the AICPA's Congressional Luncheon Program. CPAs attended briefing sessions conducted by AICPA staff then met at lunch with their elected representatives and staff. Many CPAs continued their discussions about legislative issues in follow-up meetings in the offices of their representatives. Later this year, CPAs from Virginia, Indiana, North Dakota, South Dakota, Nevada, and Utah will participate in the AICPA Congressional Luncheon Program. ★



*Rep. Gus Yatron (D-PA), who is retiring from Congress at the end of this term, displays the plaque presented to him by the Pennsylvania Institute of CPAs (PICPA) in honor of his service. To the left of Rep. Yatron is Bill Maslo, who is Rep. Yatron's Key Person Contact; Bert Trexler, the executive director of the PICPA, is to the Congressman's right. The PICPA also presented plaques to Reps. Larry Coughlin (R-PA), Joe Gaydos (D-PA), and Dick Schulze (R-PA), who are retiring at the end of 1992.*

### AICPA continues to fight Wyden bill.

**The bill would allow courts to interpret professional literature, thus broadening the profession's liability exposure, and would take standard-setting authority out of the private sector.**

## "DEAR REPRESENTATIVE..."

Key Person Contacts are often asked to write their Members of Congress in support of, or opposition to, a bill, amendment, or anticipated vote.

How that letter is written is critical to how it will be received by the Member of Congress. A poorly written letter can negate the message.

Listed below are elements to keep in mind when writing to your elected representative:

### Do:

- Write a personal letter. It's your personal relationship with your Member of Congress and the fact you are a constituent that makes your letter valuable.

- Write in your own words about why the issue is important to you

and how you are affected.

- Be concise and to the point. The letter should be only one page.

- Be courteous.

- Thank the Member of Congress for his or her attention and consideration.

### Don't:

- Copy a letter that was sent as a sample. It's likely to be spotted as a "form" letter and will instantly lose credibility in the eyes of the Member of Congress and the staff.

- Mention that you are a member of an organization that has asked you to write about a particular issue. Such a reference detracts from your message by signaling a "letter writing campaign" to Members of Congress and staff. The most effective communications are the ones that appear to be spontaneous

and self-generated.

- Write a brief cover letter referring the Member of Congress to attached material you received from an organization explaining an issue and asking for your assistance in lobbying your elected official. This is even deadlier to your communication effort than the two "Don'ts" mentioned above.

- Write a long, rambling letter.

- Be rude or threaten the Member of Congress with what you will do, or not do, if he or she doesn't do what you are asking.

Remember, you will be working in the future with this person about other issues. You want to maintain a cordial, respectful relationship. How you communicate today is likely to influence how well your opinions and arguments are received in the future. ★

## SERVICES, NOT MARKETING, KEY TO REGISTRATION, AICPA SAYS

The services you provide as a CPA, not how those services are marketed, would determine whether you would be required to register as a financial planner under an amendment proposed by the AICPA to a draft financial planning bill.

The highest incidence of consumer fraud in the investment advisory field occurs when individuals hold clients' funds or securities for investment purposes, or recommend and sell securities to the same client. Therefore, the AICPA has long argued that it is in these areas that legislators and regulators should focus their reform efforts.

The AICPA advocated this position again in testimony presented to the House Energy and Commerce Telecommunications and Finance Subcommittee on June 10, 1992. The testimony was presented by Charles R. Kowal, chairman of the AICPA Personal Financial Planning Legislation and Regulation Subcommittee, at a hearing to consider a draft bill, known as the Investment

Adviser Regulatory Enhancement and Disclosure Act of 1992. The bill draft is being promoted by Rep. Edward Markey (D-MA), the chairman of the Telecommunications and Finance Subcommittee.

Under current law, the Investment Advisers Act of 1940, accountants are exempt from registration requirements if the investment adviser services provided are "incidental to" their practice of accountancy. The AICPA amendment gives specific guidance to the Securities and Exchange Commission (SEC) that the professional exclusion in the 1940 Act remain available to persons who do not perform the two activities that pose the greatest risk to the public, namely: 1) exercising investment discretion over client assets or holding client assets for the purpose of investing them, and 2) receiving commissions contingent on the purchase or sale of specific securities. The SEC's resources should focus on these activities, the AICPA believes.

Other provisions in the draft legislation would do the following:

- Require an annual fee, based on the size of assets under management, to be paid by advisers to the SEC to fund an enhanced investment adviser oversight program. (For those CPAs who typically do not hold funds for investment, their annual fee would be the \$300 minimum.);

- Require certain advisers to obtain a fidelity bond to protect defrauded investors;

- Require advisers to disclose to their clients commissions received from the sale; and

- Establish a statutory private right of action. The AICPA opposes this provision, in its current form, because it could encourage some individuals to initiate frivolous lawsuits.

### Key Person Contacts Alerted

AICPA Key Person Contacts for Members of Congress serving on

*continued on page 4*

**SERVICES** (continued from page 3)

the Telecommunications and Finance Subcommittee have been asked to urge the Subcommittee members to support the AICPA amendment. AICPA staff members will be following up these requests from the Key Person Contacts by visiting Subcommittee members in their Washington offices.

The AICPA hopes that an additional grassroots boost will be provided by members of the AICPA Personal Financial Planning Division. These AICPA members, living or practicing in districts represented by Telecommunications and Finance Subcommittee members, have also been asked to contact their representatives in support of the amendment.

**Outlook**

The Telecommunications and Finance Subcommittee is expected to act on the bill in the near future. If the Subcommittee approves the bill, it will be sent to the full Energy and Commerce Committee for further consideration. The AICPA will continue to press for adoption of its amendment to the bill. ★

**ROLL CALL RATES STATE TURNOVER TALLY**

The impact on individual states by the number of Members of Congress from that state who will not be returning to Congress in 1993 is calculated in the chart. We will provide information in future issues of *Capitol Account* about the likely changes in Congress and their effect as a result of the November election.

State	Number of Members Leaving	Percent of Delegation Lost*	Years of Seniority Lost
Arkansas	3	75	64
Michigan	6	38	112
Washington	3	33	30
Florida	6	26	132
Ohio	5	26	70
Illinois	5	25	76
Pennsylvania	5	24	102
New Jersey	3	23	50
New York	6	19	100
California	9	17	136

\*Number of departing Members (in states with more than 3) divided by delegation size for 1993.

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**Legislation limiting legal liability expected to be introduced soon. Concept of proportionality to be included. Look for hearings before Congress adjourns.**

**AICPA**

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