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American Institute of Certified Public Accountants (AICPA)

AICPA "The Measure of Excellence"

CAPITOL ACCOUNT

A Monthly Report on Federal Legislative Matters Affecting CPAs

October/November 1992

103RD CONGRESS POISED TO TAKE UP LIABILITY REFORM LEGISLATION

The 103rd Congress is expected to consider the issue of liability reform as a result of the introduction of litigation reform legislation late in the last Congress (*Capitol Account*, July/August). Introduction of H.R. 5828 and S. 3181 in the 102nd Congress set the stage for consideration of similar legislation next year after the 103rd Congress convenes in January, according to Tom Higginbotham, AICPA Vice President–Legislative Affairs.

The scope of H.R. 5828 and S. 3181 was narrow—they would have applied only to federal securities suits—but the effect of their enactment would be broad because they included the concept of proportionality in liability suits. Enactment of proportionate liability in any area of litigation would help establish a precedent that is urgently needed to help restore balance to our litigation system.

The bills were introduced only after months of work by the AICPA and other members of the Coalition to Eliminate Abusive Securities Suits (CEASS).

The initiative launched by the AICPA immediately following the introduction of the bills in August began what will be an ongoing effort to educate all members of Congress about the need for such legislation and to build support for the measures. Other CEASS members are also working to educate Congress.

Because time was so short from the date of introduction of H.R. 5828 and S. 3181 until when the 102nd Congress was expected to adjourn, the Institute recognized that passage of the bills was not possible this year. Therefore, the AICPA's campaign to educate and build support for the legislation was selective and aimed at members of Congress who either serve on committees with jurisdiction over the legislation or in Congressional leadership positions.

Key Person contacts for these members of Congress were asked to urge their representatives to cosponsor H.R. 5828 or S. 3181 this year and support similar legislation in the next Congress. All member firms of the AICPA Private Companies Practice Section and the SEC Practice Section were also sent letters asking them to contact their members of Congress with the same request. In coordination with this AICPA effort, the largest accounting firms are also working to generate support in Congress for the legislation through their partners and staff.

By the time Congress adjourned, 23 House members had co-spon-

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TAX LEGISLATION APPROVED BY CONGRESS INCLUDES CPAs' TOP PRIORITY

Update: At press time President Bush vetoed the bill.

CPAs' top tax priority—a provision to help correct the workload compression problem—was included in the final version of the urban aid bill, H.R. 11, approved by Congress just before it adjourned for the year. In addition, the bill included language addressing a second priority—relief from the 1991 unworkable estimated tax rules—but in a form that, ultimately, caused the AICPA to withdraw its active support of the provision.

Other provisions for which the AICPA fought hard were also included in the legislation; they include simplification and amortization of intangibles. In addition, language to prevent the IRS from soliciting confidential client information from CPAs was incorporated in the Taxpayer Bill of Rights portion of the measure.

However, President Bush has said he will veto the bill. His reasons are political and unrelated to the merits of the tax provisions included in H.R. 11. If he does carry out his veto threat, it will be the second time this year these important provisions have fallen victim to political maneuvering. In April, the President vetoed another bill for political reasons that contained similar tax provisions.

The veto threat is especially disappointing to the Institute because

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WYDEN BILL DIES WHEN SENATE REFUSES CONSIDERATION

The Financial Fraud Detection and Disclosure Act, H.R. 4313, introduced by Rep. Ron Wyden (D-OR) and opposed by the AICPA, died in the final hours of the 102nd Congress after the Senate refused to consider it.

The AICPA predicted this outcome for the legislation earlier in the year, but did not expect such a tortuous path to the conclusion. As frequently happens in the end of Congress rush to adjourn, the least likely scenario prevails. In this instance, as expected, the House passed the Wyden bill. What was unexpected was that it was passed, not as a separate bill, but as a part of legislation to regulate financial planners. This made it more likely that the Wyden language could be enacted because it would go to the Senate as a part of the financial planning bill. Separate consideration of the Wyden bill by the Senate would not be required. Because the Senate had already passed a financial planning bill (see related story, this page), House and Senate negotiators could begin discussions immediately to resolve differences between the two bills.

The Institute in response to inquiries from members of the Senate and its staff, reiterated its longtime opposition based on provisions which transfer the setting of auditing standards from the private sector to the federal government and allow the courts to interpret professional literature, which would broaden the profession's exposure to liability.

As the legislative session drew to a close, Senate negotiators refused to include the Wyden bill language in the financial planning bill. Therefore, the Wyden language died. The financial planning bill also died for unrelated reasons.

The fight concerning expansion of the auditor's role in auditing public companies is sure to continue next year when Congress reconvenes in January because Rep. Wyden has promised to reintroduce legislation similar to H.R. 4313 as soon as Congress convenes.★

NEW KEY PERSONS NEEDED

The recent federal election has brought more than 100 new members of Congress to Washington. The AICPA needs a Key Person Contact for each of them.

If you know someone who is newly elected to Congress, please consider offering to serve as a Key Person for that member of Congress. Please remember also that if your lawmaker is retiring or defeated that does not necessarily mean your participation in the Key Person Program must come to an end. Effective personal relationships can always be cultivated.

"The Key Person Program is the AICPA's most effective link to Congress," says John Sharbaugh, AICPA Vice President–State Legislation and Legislative Relations. "It works because the Key Persons and members of Congress know one another personally. The profession has no better way of informing members of Congress about issues that are important to CPAs," notes Sharbaugh.

The large number of new members who were elected on November 3rd offer unprecedented opportunities and challenges to the accounting profession. We will need the best grassroots help available.

To volunteer to extend your participation in the Key Person Program or for more information, write or call John Sharbaugh in the AICPA's Washington office at 1455 Pennsylvania Avenue, N.W., Suite 400, Washington, D.C. 20004-1081, telephone 202/434-9257 .★

FINANCIAL PLANNING BILL FAILS IN CONGRESS

Financial planning legislation died at the end of the 102nd Congress when House and Senate negotiators failed to reach agreement about what should be included.

House passage of the financial planning provisions of the bill, H.R. 5726, were supported by the AICPA. (Language expanding the auditor's role in auditing public companies was incorporated into H.R. 5726 during the end of session rush to adjourn. See related story, this page.) The AICPA dropped its opposition to earlier versions of House financial planning legislation after objectionable provisions were removed during committee consideration, thanks largely to efforts by AICPA Key Persons and members of the Personal Financial Planning Division who lobbied their members of Congress about the necessity for removing the provisions (*Capi-*

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Capitol Account, October/November 1992, Volume 4, Number 6. Editorial offices at 1455 Pennsylvania Avenue, N.W., Washington, D.C. 20004-1081. Opinions of the authors are their own and do not necessarily reflect policies of the Institute. **Editor:** Shirley Twillman

NEVADA, UTAH LAST STATES TO PARTICIPATE IN AICPA'S 1992 LUNCHEON PROGRAM

The September 17 luncheon featuring the Nevada Society of CPAs and the Utah Association of CPAs wrapped up the AICPA's 1992 Congressional Luncheon Program.

Pictured here are Rep. Barbara F. Vucanovich (R-NV) and Roy E. Arthurs of Reno, NV, who is the Key Person Coordinator for Nevada. Other members of Congress who attended were Senators Richard Bryan (D-NV), Jake Garn (R-UT), and Orrin Hatch (R-UT) and Reps. James H. Bilbray (D-NV), James V. Hansen (R-UT), and William H. Orton (D- UT).

CPAs from Iowa, Texas, Virginia, Indiana, North Dakota, and South Dakota also participated in the Congressional Luncheon Program during 1992. Briefing sessions were conducted by AICPA staff about legislative issues of importance to the accounting profession. CPAs then met their elected representatives at lunch and, frequently, continued their discussions in follow-up meetings later in the day.

Planning for the 1993 Congressional Luncheon Program is now underway. ★

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tol Account, July/August 1992). One provision would have granted investors a private right of action under which to sue advisers. The other provision would have granted the Securities and Exchange Commission (SEC) the rulemaking authority to interpret provisions of the Investment Advisers Act of 1940.

The Senate financial planning bill, S. 2266, primarily provided increased funding for the SEC to oversee investment advisers; it did not include the two provisions that were objectionable to the Institute. While the House bill also included increased funding, it contained other provisions as well. It was the additional provisions in the House bill that proved to be the stumbling block to enactment of the legislation this year because House and Senate negotiators could not agree about how broad the scope of legislation to regulate financial planners should be.

Rep. Rick Boucher (D-VA), the sponsor of H.R. 5726 and with whom the AICPA has worked to craft an acceptable bill, has already said he will reintroduce legislation early in the 103rd Congress to regulate investment advisers. The Institute will continue its efforts to ensure that additional oversight is targeted to inspections of advisers who pose the greatest risk to the public— those who receive commissions for recommending or selling investment products and those who have custody of client funds. ★

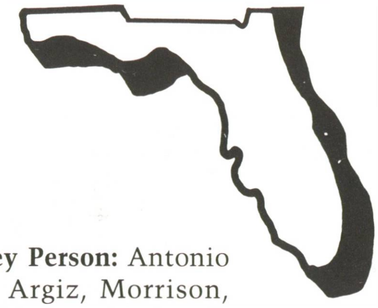
TAX *continued from page 1*

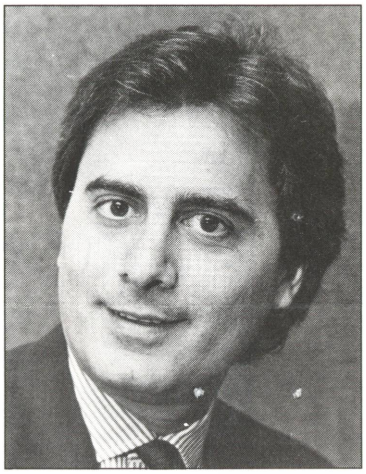
the AICPA and its members, particularly Key Person Contacts, expended enormous effort to work out an agreement acceptable on Capitol Hill regarding fiscal years and, initially, the new estimated tax rules.

Assuming that H.R. 11 is vetoed, we will continue our battle next year to have language enacted to amend the current fiscal year and estimated tax laws. Congressional observers predict the new Congress, which convenes in January, will pass another tax bill next year. It should be possible to again have the fiscal year provision included in a new tax bill because it is viewed as a small revenue raiser and can be used to offset other spending items that might be included. Changes in the estimated tax provision will depend on the projected revenue numbers.

Key Person Contacts will probably again be asked to assist the Institute in its efforts to have these and other important tax changes enacted. ★

SPOTLIGHT ON KEY PERSONS





Key Person: Antonio L. Argiz, Morrison, Brown, Argiz & Company, Miami, FL.
Contact For: Rep. Ileana Ros-Lehtinen (R-FL).
Form of Relationship: Personal friend and campaign treasurer.
Number of Years: 3
Comments About Being A Key Person: "The AICPA Key Person Program is crucial to the accounting profession. It is a proven fact that a one-to-one relationship in the political process is critical, as it enables us to establish a closer connection between Congress and our profession. From legal liability reform to tax legislation, our views can be heard on Capitol Hill with a far better understanding of the issues in question.

In Florida, our Key Person Program has become our lifesaver, as it has helped us get our message across to legislators in a more effective manner." ★

103RD CONGRESS

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sored H.R. 5828. The co-sponsors are Reps. Sherwood L. Boehlert (R-NY), Dan Burton (R-IN), Ronald D. Coleman (D-TX), Newt Gingrich (R-GA), Dan Glickman (D-KS), Ralph Hall (D-TX), J. Dennis Hastert (R-IL), Paul B. Henry (R-MI), Andrew Jacobs, Jr. (D-IN), Norman F. Lent (R- NY), J. Alex McMillan (R-NC), John Miller (R-WA), G.V. (Sonny) Montgomery (D-MS), Stephen L. Neal (D-NC), Bill Paxon (R-NY), John Edward Porter (R-IL), James H. Quillen (R-TN), Jim Ramstad (R-MN), Don Ritter (R-PA), J. Roy Rowland (D-GA), Rick Santorum (R-PA), E. Clay Shaw, Jr. (R-FL), and Charles Wilson (D-TX). New co-sponsors were not added to S. 3181.

H.R. 5828 was introduced by Rep. Billy Tauzin (D-LA) and S. 3181 by Senators Pete Domenici (R-NM) and Terry Sanford (D-NC).

Enactment of litigation reform legislation is at the top of the AICPA's legislative agenda for the 103rd Congress. AICPA Key Persons are certain to be asked for their help next year. ★

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