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Say "No" to Proposals to Amend New Tax Law, AICPA Urges Congress

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The path to sound tax policy is not by way of tax legislation that is driven by revenue needs, the AICPA warned, as it urged Congress to reject more than 80 tax proposals that would amend the new budget law.

Testifying before the House Ways and Means Subcommittee on Select Revenue Measures, the AICPA expressed its concern that the policy rationale for many of the proposals is unclear and that the proponents of the items are unknown. The perception, then, the AICPA told the subcommittee, is that the items have been proposed for some use that will be revealed later. The proposals represent a perpetuation of the trend it has long opposed, the AICPA said, toward writing tax law on the basis of revenue needs rather than on sound tax policy.

Moreover, Pamela J. Pecarich, on behalf of the Institute, admonished the subcommittee for considering proposals that would revise provisions of the budget law that were extensively debated and negotiated before being signed into law.

"The ink on this act is hardly dry," the AICPA said, referring to the fact that the new law was just signed in August and that most of the new law's provisions have not had a chance to take effect.

The Institute reminded Congress that it must be constantly concerned with "inordinate complexity and reporting burdens because of the adverse effects these factors have on compliance by taxpayers." Most of the new proposals "will impose burdens completely disproportionate" to the small amount of revenues the proposals will raise, the AICPA cautioned. The AICPA also emphasized that "change, in and of itself, is a source of complexity."

One of the bills to which the AICPA strongly objects would amend the individual estimated tax provisions of the new law. Under the proposed legislation, the new safe harbor

would be increased from 110 percent to 115 percent for individuals who have adjusted gross incomes exceeding \$150,000 and who are required to make estimated tax payments. The AICPA warned the subcommittee that at 115 percent many taxpayers would not use the safe harbor. These taxpayers would be faced instead with more complex calculations three or four times a year. "Increasing the safe harbor is inappropriate and diminishes its simplification benefit," the AICPA said.

It's not clear how great a threat this proposal actually poses to the new 1993 estimated tax law, but after all the hard work by the AICPA and its Key Persons to have the onerous 1991 estimated tax rules repealed and a workable safe harbor restored, the Institute is committed to doing everything possible to prevent the 1993 law from being amended.

Other proposals are representative of a tendency to chip away at the net income concept of

(Continued on page 2)

INSIDE THIS ISSUE:

Senate Exchange on Wyden
Bill and Litigation Reform

President's Pension Reform
Package Includes AICPA
Disclosure Recommendations

AICPA Assisting in Effort to
"Reinvent Government"

A
Monthly
Report on
Federal
Legislative
Matters
Affecting
CPAs

AICPA

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AICPA Seizes Opportunity to Assist in “Reinventing Government”

“Reinventing government” is the phrase that immediately became familiar to millions of Americans with the release by Vice President Al Gore of the report by the National Performance Review, a plan to make government “work better and cost less.”

Improved financial management of our nation’s government is one of the fundamental goals of the report entitled *From Red Tape to Results: Creating A Government that Works Better & Costs Less*. Identified as a primary tool for accomplishing that goal is the Chief Financial Officer’s (CFO) Act of 1990.

As an early mover in the campaign to improve federal financial management and a strong champion of the CFO Act, the AICPA applauds the report’s recommendations and offers its assistance to Congress and the Administration.

We’ve seized an opportunity to help

implement the Vice President’s program by answering a call for assistance from Rep. Collin Peterson (D-MN). Rep. Peterson is a CPA and chairman of one of the House Government Operations Committee’s subcommittees that will be looking at the implementation of the CFO Act. We’ve already met with Rep. Peterson and his staff and will continue to support them with information about how to improve the financial



Uncle Sam Needs Good CPAs!

management of the federal government.

The CFO Act designates as the federal government’s chief financial officer a deputy director of the Office of Management and Budget (OMB) and charges that individual with the responsibility for establishing financial management policies across the government and for monitoring agency audits. Also created by the CFO Act were chief financial officer positions for 23 agencies and a CFO Council chaired by the OMB deputy.

Vice President Gore’s report recommends putting implementation of the CFO Act on a fast track and establishes a timetable for accomplishing certain things. For example, by the end of this year the Department of Treasury and the Office of Management and Budget (OMB) are to sign an agreement clarifying their respective policymaking and implementation roles.

(Continued on page 4)



SAY “NO”, continued from page 1

taxation by disallowing portions of bona fide trade or business expenses, the AICPA said. For example, among the proposals are ones that would disallow a portion of advertising expenses; disallow a deduction for corporate interest on tax underpayments; limit deductions for valid business auto expenses; and deny the deduction for environmental clean up costs and damages.

The AICPA also opposed on policy grounds two other proposals—replacement of the foreign tax credit with a deduction and repeal of the taxable income limit for the S Corporation built-in-gains tax.



Pamela J. Pecarich, chairman of the AICPA Tax Legislative Liaison Committee, testifying before the House Ways and Means Subcommittee on Select Revenue Measures on behalf of the AICPA on September 21, 1993.

Exchange Between Senators Reveals Senate's Intentions

Wyden Bill and Litigation Reform
Subject of Comments

A recent exchange between two senators during a committee meeting offered an inside glimpse of the Senate's intentions regarding the Financial Fraud Detection and Disclosure Act and securities litigation reform legislation. (See the April, May/June, and August issues of *Capitol Account*.)

Senator John Kerry (D-MA), who is the sponsor of S. 630, the Senate Financial Fraud Detection and Disclosure Act, considered offering his bill as an amendment to the community development banking bill, which was approved by the Senate Banking Committee on September 21, 1993. However, during the committee's consideration of the banking bill, Senator Kerry said he would not offer S. 630 as an amendment because he expects it to be incorporated into a Senate bill to reform the securities litigation laws.

He said, "I've decided not to include S. 630 in this bill. Everyone supports it; it is not controversial. I understand Senator [Pete] Domenici [R-NM] wants to move it together with securities litigation reform legislation. I am content to bide my time now but I hope we can work together—I look forward to cooperating with Senator Domenici."

Senator Domenici responded, "Senator [Chris] Dodd [D-CT] and I have been working on securities litigation reform legislation for some time. We see the wisdom of your bill also. We will have an instrument for markup in the not too distant future. We don't want to delay, but there is a lot of contention, 'big forces' out there, regarding our bill."

The Financial Fraud Detection and Disclosure Act, commonly known as the

President's Pension Reform Bill Includes Several AICPA Disclosure Recommendations

The expanded disclosure of information about workers' pension plans that the AICPA called for in April is a focus of the Clinton Administration's pension reform package (*Capitol Account*, May/June 1993).

The Administration's Retirement Protection Act of 1993, which was unveiled on September 30, 1993 by the U.S. Department of Labor, would require an explanation to workers and retirees in plain language about their plan's funding and the limits on the Pension Benefit Guaranty Corporation's (PBGC) guarantee. The AICPA recommendations called for an annual report that was more easily understandable about the funding status of the pension plan, as well as information about what workers could expect from the PBGC in the event that their plan should fail.

In addition to broadening participant disclosure rules, the President's package would strengthen funding rules for underfunded plans, enhance the enforcement authority of the PBGC, and increase premiums for underfunded plans that pose the greatest risk.

Congress continued its examination of the financial condition of America's pension plans on October 4, 1993 with a hearing by the House Ways and Means Subcommittee on Oversight, which is chaired by Rep. J.J. Pickle (D-TX).

AICPA representatives stressed to Rep. Pickle in a private meeting on October 6, 1993 that the disclosure requirements in the Administration's package should go farther and should be applied to all pension plans, not just those that are underfunded. (The Administration's bill would not affect fully funded pension plans.)

Rep. Pickle told us that the Oversight Subcommittee has heard from many groups about the importance of supplying more information to workers about the funding status of their pension plans, and complimented the AICPA on its efforts.

Clearly, our endeavors to require pension plans to provide more information to workers are having an impact. We'll be continuing our pension disclosure campaign as Congress considers the Administration's pension reform package.

Wyden bill, after its House sponsor, Rep. Ron Wyden (D-OR), would expand auditors' responsibilities in reporting and detecting fraud, but preserves for the accounting profession the principal responsibility for setting auditing standards.

The House Energy and Commerce Committee approved the Wyden bill, H.R. 574, in April. It has been held

hostage since then by a jurisdictional dispute between the House Energy and Commerce and Banking Committees over audits of federally insured depository institutions. The AICPA supports H.R. 574, as well as S. 630, and we expect the full House to approve H.R. 574 once the committees settle their turf battle.

Senate Sets Hearing on FASB Stock Option Proposal

Opponents and proponents of the Financial Accounting Standards Board's (FASB) controversial proposal regarding employee stock options will have an opportunity to argue their cases before the Senate Banking Securities Subcommittee on October 21, 1993.

In April, FASB voted to issue new rules on stock compensation. FASB's proposal was issued in June as an exposure draft, and would require companies to charge against their earnings the value of a stock option at the time it is granted.

Witnesses at the hearing are expected to include representatives from high-technology and bio-technology firms, venture capital firms, investor groups, and FASB.

Legislation has been introduced in the Senate and House of Representatives on

both sides of the issue. S. 259 and H.R. 2878 direct the Securities and Exchange Commission to act if FASB does not. S. 1175 and H.R. 2759 would overrule any final FASB decision to impose an accounting charge on stock options.

The AICPA opposes Congressionally-mandated accounting standards. Furthermore, previous attempts by legislators in recent years to set accounting standards have not enjoyed great success. While the AICPA was not invited to testify at the hearing, we'll be closely watching the debate in Congress and later this year we'll be sending our comments to FASB on its exposure draft.

We do not expect that Congress will pass any legislation related to this issue until after FASB has made a final decision.

AICPA, continued from page 2

The report also promises to "insist on higher qualifications for chief financial officers" and to create a continuing education program for federal financial managers by March 1994.

Also, we are actively encouraging, at the request of the Administration, CPAs to consider careers in the federal government as financial managers. CPAs have specialized skills that are badly needed to help achieve the Vice President's goals.

To further enhance the effort to improve the government's financial management, the report calls for a comprehensive set of "credible accounting standards for the federal government" to be issued within the next 18 months by the Federal Accounting Standards Advisory Board. The Board was established in 1990 to develop and recommend federal accounting standards for OMB, the Treasury Department, and the General Accounting Office. Furthermore, if the Board fails to meet this deadline, the report recommends that it be replaced by a new, independent board with greater powers.

Tax-related recommendations are also included in the report, and those recommendations currently are being examined by the AICPA's Tax Division. Among them are proposals to modernize the IRS, simplify employer wage reporting, increase IRS collections through better compliance efforts, adjust civil monetary penalties, including tax penalties, to the inflation index, and authorize payment of federal taxes by credit card.

As the Vice President's program moves forward, we'll report back to you about the AICPA's involvement.

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