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Capitol Account

Washington, D.C. *December 1994*

A Monthly Report on Federal Legislative Matters Affecting CPAs

Congress Wraps Up; Accounting Profession Sets 1995 Legislative Agenda

The 103rd Congress came to Washington in January 1993 amid predictions that control of both ends of Pennsylvania Avenue by Democrats would bring action and change; it recessed in October bitterly divided and tightly gridlocked. The pace of the Clinton Administration's early victories, which often were won on strict party-line votes, could not be sustained as the health care debate took center stage and the fragile Democratic unity fractured. Sensing that the November elections would provide them with a long-sought opportunity to take control, Republicans blocked Democrat efforts at every turn. Bills withered and died in the corroded political atmosphere, including bills important to the accounting profession. Still, the accounting profession won some fights in the 103rd Congress. It is well positioned to press ahead with its agenda in the upcoming, Republican-controlled Congress.

Top of 1995 Agenda

Staked out at the top of the AICPA's legislative agenda for 1995 are two Herculean tasks: fixing the workload compression problem plaguing practitioners and reforming the nation's securities litigation system.

Workload Compression

The Institute is poised to launch its campaign to win Congressional approval of a solution to the workload problem; the solution was developed by the AICPA's Workload Compression Task Force this year.

The workload compression proposal would link a fiscal year election for a passthrough entity with a requirement that the electing entity--rather than the individual owners--make estimated tax payments to the government on behalf of its owners. Partnerships and S corporations remaining on a calendar year would not be subject to this requirement. An owner would not pay individual estimated tax on the entity income, but would report that income--and take credit for the estimated tax paid--on the next 1040 form filed.

"Because of the 1986 Tax Reform Act, we have a tax season that falls like an H-Bomb in the first few months of the year," AICPA Chairman of the Board Robert L. Israeloff told AICPA Council members in his inaugural address. Israeloff promised "a full-court press" to regain full use of fiscal years.

Reconnaissance missions are already underway. AICPA representatives are meeting with Treasury Department and IRS officials to secure them as allies in the profession's cause.

Securities Litigation Reform

The accounting profession advanced in its battle to have Congress enact securities litigation reform legislation during the 103rd Congress. Senate hearings in 1993 kicked off the Congressional debate, offering the AICPA its first opportunity to argue its case before Congress, and led to the introduction of a securities litigation reform bill in the Senate.

"The current system is broken, plain and simple," Jake Netterville, who was then AICPA chairman of the board, told members of the

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Note to Readers:

This special edition of Capitol Account *is appearing as an insert in* The CPA Letter *for the first time. It provides a snapshot of federal legislative activity important to the accounting profession during this Congress and a look at what's ahead.* Capitol Account*, produced in the Institute's Washington, D.C. office, is intended to inform AICPA Key Persons, state society leaders, and AICPA Council members about legislative activities in our nation's capital. For details about the Key Person Program and how you can receive* Capitol Account *regularly, see page 4.*

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Securities Subcommittee. Taking full advantage of the forum, Netterville pressed senators to rewrite the law. He charged that the present system invites excessive litigation that saddles businesses and investors with huge costs, while providing minimal compensation for victims of securities fraud.

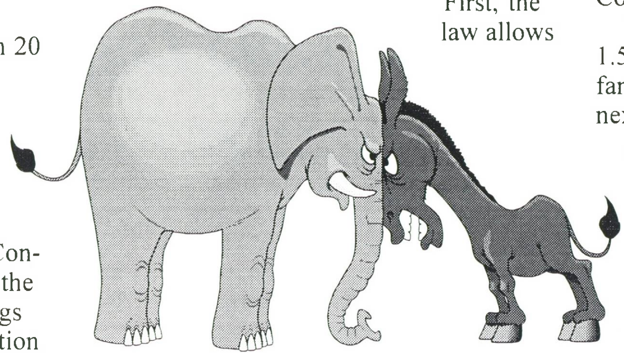
Introduction of S. 1976 by Senator Christopher Dodd (D-CT), who chaired the Senate hearings, proved that the profession had successfully argued its case. AICPA Key Persons played a pivotal role in signing up more than 20 bi-partisan cosponsors.

The charge for reform in the House of Representatives resulted in hearings in August on H.R. 417, which was introduced by Rep. Billy Tauzin (D-LA). Rep. Tauzin is Netterville's Member of Congress and has been the spur behind the House push for reform. The hearings defined the areas of greatest contention between the two sides and gave the Institute the coordinates it needs to plot strategy for the upcoming Congress.

The inclusion of a securities litigation reform provision in the House Republicans' *Contract With America* should be a big boost in this fight. Two political tasks face the AICPA--to ensure that when Congress acts reform provisions are included with direct benefit to the profession and to keep up the pressure on Congress, while withstanding attacks by the securities litigation bar, consumer advocate Ralph Nader, and academics aligned with the opposition.

Tax Initiatives

The AICPA won its long-fought battle to repeal the onerous 1991 individual estimated tax rules when President Clinton signed the 1993 budget plan into law. The budget law included the proposal the AICPA helped draft to restore a prior-year tax safe harbor to individual taxpayers who are required to make quarterly estimated tax payments. Congress followed other Institute recommendations, too, when it put together the final version of the 1993 tax and budget package. First, the law allows



amortization of intangible assets, including goodwill, over 15 years and generally simplifies tax accounting in this area. Second, the investment tax credit proposed by President Clinton, and opposed by the AICPA on the grounds that it was too complex for the likely benefits, was dropped from the bill. Third, a provision that would have made more stringent the standard allowing a preparer to sign a return with a fully-disclosed controversial return position was dropped from the bill, as advocated by the AICPA.

The AICPA also helped defeat a Treasury Department plan that targeted changes to the taxation of inventory transactions as a way to make up tariff income that would be lost under the General Agreement on Tariffs and Trade (GATT). One of the proposals would have repealed the lower of cost or market inventory method. The AICPA criticized both the substance of the proposals and the process by which Congress was being asked to consider them. Happily, Treasury's plan was not in the GATT legislation scheduled to be considered by Congress after the elections.

The Institute's drive to assist more than 1.5 million of our country's small and family-owned businesses will continue next Congress. During the 103rd Congress, bills supported by the AICPA were introduced that would have opened up new sources of investment and simplified the rules under which S corporations operate. The bills were widely supported, but Congress did not act on them.

Tax simplification provisions long championed by AICPA were included in a tax simplification bill passed by the House. The Senate did not act on it.

On Other Fronts

The AICPA fought for, and won, important concessions from lawmakers writing the "Financial Fraud Detection and Disclosure Act" and the "Investment Adviser Regulatory Enhancement and Disclosure Act." The concessions preserve significant rights for the profession. When the bills are reintroduced in the 104th Congress, the AICPA will be vigilantly watching to be sure that the agreed-upon language is included.

FASB's controversial proposal to account for stock options triggered Congressional debate about whether Congress should set accounting standards. Fueling the debate is the business community's growing frustration with FASB over what it considers the setting of excessive standards. At the eleventh hour in this Congress, a bill was introduced to require the SEC to approve new accounting principles issued by FASB. What action the new Republican Congress might take in this area likely will be determined by FASB's action on its stock option proposal. In any event, the AICPA will fight to protect private sector standard setting.

Key Persons Score Wins

AICPA Key Persons clinched two legislative deals for the AICPA this Congress. Both involved provisions that were incidental to mammoth bills: reform of the nation's bankruptcy laws and overhaul of the telecommunications industry. Nonetheless, had the provisions remained in the bills, they would have had big consequences for the accounting profession.

The AICPA flagged for attention the bankruptcy reform legislation because several of its provisions would have cut fees for CPAs who work on bankruptcy cases. AICPA staff succeeded in having the Senate amend two troublesome provisions so that they were acceptable. However, the Senate refused to remove or amend a third provision. It required fees payable to professionals working on bankruptcy cases to be contingent on the total value of the estate and on the funds available to all creditors.

When action on the bill shifted to the House, the AICPA urged the House Judiciary Committee Chairman to act to have the provision deleted. The Institute

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Congress Salvages "Nanny Tax" Bill; Some Tax Deductions Endangered

Taxpayers and tax practitioners take heed: The stalled "nanny tax" bill was salvaged and sent to President Clinton by Congress, just before it bolted for the campaign trail. It is effective for 1994 and will require that IRS change Form 1040 for 1995 returns. Unfortunately, several long-time tax deductions likely will expire due to Congressional neglect. Topping the endangered species list of tax deductions is the health care deduction that sole proprietors and self-employed individuals lost at the end of 1993. It was widely expected to be restored this year.

Nanny Tax

The updated and simplified "nanny tax" law is a boon for employers of domestic workers. Gone are multiple and complex reporting forms and the outdated threshold at which Social Security taxes must be paid and reported. The AICPA and others pushed hard for this bill, and the AICPA applauds the Congress's effort. The Institute is pleased two of its recommendations--to raise the threshold and to exempt young workers--are part of the new law. Specifically, the legislation increases the reporting threshold from $50 quarterly to $1,000 annually and exempts domestic workers under age 18, unless it is their principal job.

The new payment and reporting system, though simpler than the old, does not follow the AICPA's recommendation. The Institute earlier this year urged Congress to continue to have employers report the payment of Social Security taxes on IRS Form 942, separate from Form 1040. Instead, Congress replaced the present quarterly filing system with an annual reporting and payment system using a revised Form 1040 for years 1995 through 1997. Beginning in 1998, employers will either increase their quarterly estimated tax payments or increase the taxes withheld from their own wages to cover their share of domestic employee Social Security tax.

Those employers and employees who have paid Social Security taxes during 1994 are eligible for refunds of FICA taxes if the employee's wage falls below the $1,000 ceiling. However, those employees will still receive credit for Social Security coverage if a Form W-2 is filed.

Health Care Deduction

The death of the health care bill also spelled the death of restoration this year of the 25% self-employed deduction for health insurance premiums paid in 1994. (At press time, there was an outside chance the 25% deduction would be attached to the GATT legislation scheduled to be considered by Congress during a lame-duck session at the beginning of December.)

The deduction died at the end of 1993, but at that time Congress signaled its intention to reinstate the deduction this year as part of the bill overhauling the health care system.

It is "critical that Congress re-establish the right of self-employed persons to receive" the deduction, the AICPA told Congress following the demise of the health care bill. The Institute suggested it be attached to the "nanny tax" bill. Congress chose, instead, to pass the "nanny tax" bill without amendments.

The outlook for reinstating the deduction during the 104th Congress is uncertain.

Democrats are already on record in support of it. Outgoing Senate Finance Committee Chairman Daniel Patrick Moynihan (D-NY) has declared his support for its retroactive reinstatement and for raising the deduction from 25% to 100%. The incoming Republican chairmen of the House and Senate tax writing committees may have other priorities.

Provisions Set to Expire

It's unclear whether a Republican-controlled Congress increases or decreases the chance of action on the following tax provisions that are set to expire at the end of calendar 1994:

✔ Exclusion for employer-provided educational assistance. Employees are allowed to exclude from their gross income up to $5,250 of employer-provided education expenses.

✔ Tax-favored treatment of gifts of appreciated property to private foundations. As a general rule, the amount deductible for charitable gifts to such foundations is not the value of the gift at the time of the donation, but the cost of the gift when the donor acquired it.

✔ Targeted jobs tax credit. Employers are allowed a tax credit of up to $2,400 each time they hire a hard-to-employ applicant.

✔ Orphan drug credit. Developers of drugs for rare diseases generally are allowed a 50% credit for testing expenses.

AICPA PAC Picks 314 Winners

Using its political action committee (PAC) as the vehicle, the AICPA spoke loudly and forcefully on behalf on the accounting profession in the November elections, racking up an impressive 88% win rate. Contributions were made to candidates who support the profession's interests.

The AICPA backed 358 candidates in the November general election who were competing for seats in the U.S. Senate and House of Representatives. Of those candidates, 314 won their races and 44 lost. The coffers of the winners received 89% of the AICPA's dollars in these races. The split in contributions between the parties was nearly even, with 51% of the total contributions going to Democrats and 49% to Republicans.

Importantly, 79% of the AICPA's PAC contributions were distributed to the candidates in their states by CPAs or a representative of the state's CPA society. The remaining 21% of the dollars was delivered in Washington, D.C. by AICPA staff.

PACs have been vilified in recent years and, despite rhetoric to the contrary, are not a secret system of financing elections open only to "Gucci-clad" lobbyists and large corporations. They were created to reform the political system by limiting the contributions that can be made and providing public accountability of all monies donated to political candidates. PACs are a positive force in the political process and provide a means for individuals, such as CPAs, to deliver a focused message to candidates.

For more information, write AICPA, Attn: Sheila Colclasure, 1455 Pennsylvania Avenue, N.W., Washington, D.C. 20004, or call her at 202/434-9263.

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argued it is appropriate for practitioners to be fairly compensated for all services performed at the direction of the estate in bankruptcy. The AICPA followed up its efforts with the Chairman by asking the Chairman's Key Person to talk with him about this issue. The Chairman, as a result of his conversation with his Key Person, negotiated with the Senate sponsor of this provision to have it removed. Congress later passed the bankruptcy bill, minus the provision opposed by the AICPA, and sent it to President Clinton to be signed.

Also targeted for action by the AICPA was a provision in the telecommunications bill to require mandatory rotation of firms performing work for the regional "Baby Bell" companies. AICPA staff negotiated with Senate staff for months to get the unprecedented rotation language removed. Although the AICPA received a sympathetic hearing on Capitol Hill, one U.S. senator refused to agree to the provision's removal.

Finally, the Institute asked the Key Person for the chairman of the Senate Commerce Committee to talk with him about the impact the rotation provision would have on the profession and its clients. The Chairman agreed to remove the rotation language, if the profession would not seek further changes to the bill. The profession agreed, and the committee approved the bill without the mandatory firm rotation provision.

Ultimately, Congress ran out of time to act on the telecommunications bill. It will be back next Congress and the AICPA may have to call upon Key Persons to work their magic again.

AICPA Key Persons: The Profession's Political Activists

Who's hard-hitting, gets to the political bottom line, and is located in every state? AICPA Key Persons. CPAs from across the country, who volunteer as AICPA Key Persons, are the profession's most effective lobbyists on Capitol Hill. These CPAs, leaders in the profession's advocacy and in protecting the profession, are as adept at working the political system as in scrutinizing the numbers in a financial statement. They are the reason that the profession is assured that Members of Congress will hear our message.

And why do they listen? Because Key Persons *personally* know the Member of Congress with whom they are matched in the program. Usually, the Key Persons are constituents--and Members of Congress always respond to constituents. Or, the Key Person may be an old school friend or campaign treasurer. Whatever the relationship, the program provides the accounting profession with a spokesperson who is known and trusted by that Member of Congress.

The Key Person Program is the foundation of the Institute's political and legislative operations and is a cooperative effort between the AICPA and the state societies.

If you know any of your federal officials and would like to participate in the Key Person Program, please send in the form below. You'll be mailed an information package explaining how you can become a Key Person. If you have any questions, please call John Sharbaugh at 202/434-9257.

I'd like to be a Key Person for: ______________________

My Name: ______________________

Address: ______________________

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Telephone: ______________________

Please mail to: John Sharbaugh, AICPA, 1455 Pennsylvania Ave., N.W. Washington, D.C. 20004

If you would like to be added to the *Capitol Account* mailing list, write AICPA, Attn: Shirley Twillman, 1455 Pennsylvania Avenue, N.W., Washington, D.C. 20004 or call her at 202/434-9220.