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Capitol Account:

A Memo to AICPA Key Persons

Washington, D.C.

August 19, 1999

GOP Tax Cut Bill Includes Changes Sought by AICPA

The \$792 billion tax cut bill Republicans pushed through Congress on August 5 includes changes the AICPA has urged Congress to make. Most notably, the bill would simplify three of the ten areas of the tax code the Institute identified this spring as causing complexity for individuals and small business. The three areas Congress moved to simplify are the marriage penalty, the alternative minimum tax, and the generation-skipping transfer (GST) tax. In addition, the bill makes other changes recommended by the Institute.

Passage of this bill is just the first skirmish of the tax cut battle. With a presidential veto looming, lawmakers and the President are expected to hammer out a compromise tax cut bill this fall.

Details about several of the provisions in the tax cut bill that make changes for which the AICPA has lobbied are listed below.

- ✓ **Marriage Penalty**—The marriage penalty would be alleviated. Between 2001 and 2005 the standard deduction for taxpayers filing jointly would be increased to double the amount allowed single taxpayers. The AICPA recommended repeal of the marriage penalty.
- ✓ **Individual AMT**—The AMT for individuals would be phased out between 2005 and 2008; beginning in 2000, individuals could claim personal tax credits against the AMT. Corporations, beginning in 2002, could claim all of their taxes paid to other countries as credits against the AMT, instead of the 90% they are currently allowed. The AICPA recommended repeal of the individual AMT, or allowing taxpayers to claim personal tax credits against it.
- ✓ **GST Tax**—The bill would give the IRS statutory authority to grant relief under its regulations to taxpayers for late allocations for the GST tax exemption and would make several other technical changes to the GST tax rules that would substantially alleviate the trap for the unwary. The GST tax provision in the bill follows the proposal developed by the AICPA, American Bar Association, American Bankers Association and the American College of Trust and Estate Counsel.
- ✓ **Capital Gains**—Individuals' capital gains rates would be reduced from 10% and 20% to 8% and 18%, effective January 1, 1999. In 2000, the capital gains tax brackets would be indexed for inflation for investors who paid taxes on their gains up to that point. Corporate taxpayers would not get a capital gains tax break. The AICPA has supported inflation indexing, but when such a provision was introduced in 1997, we thought its complexities outweighed its benefits.
- ✓ **Workplace Retirement Planning**—Employers would be able to offer retirement-planning assistance to their employees as a de minimis fringe benefit without the cost of those services being taxable to the employee. The AICPA, the Consumer Federation of America and various other organizations representing financial planners developed this proposal and lobbied for its inclusion in the bill.

cc: Board of Directors
Members of Council



AICPA Briefs Congress, FTC About WebTrust

From Capitol Hill to the federal agencies, lawmakers and regulators are struggling with the public policy problems associated with e-commerce, and AICPA representatives have been letting government officials know about how CPA WebTrust enhances business transactions, privacy, and security in a world moving toward e-commerce.

WebTrust can help small businesses build consumer trust and confidence so that the business will reap its full e-commerce potential, Alan Anderson, AICPA Vice President for Technical Services, told Congress. Because WebTrust goes to the heart of a Web Site's business practices, Anderson told the House Small Business Committee, it gives credibility to small business Web sites and helps them access a worldwide customer base. Anderson testified at a May hearing exploring the benefits and pitfalls of conducting business over the Internet.

Two briefings to the Federal Trade Commission (FTC) highlighted achievements of the WebTrust seal during the past year. Covered were the development of a consumer complaint mechanism to resolve problems regarding privacy infringements, product quality and customer service, as well as the continued global expansion of the program. The June briefings were presented by Anderson and Everett C. Johnson, Chairman of the AICPA Task Force on Electronic Commerce Assurance Services.

E-Commerce Issues Hot; Some Impact Accounting Profession

Hot e-commerce issues, from Internet taxation to export controls, are popping up this Congress that affect the accounting profession.

Online privacy and the protection of personal data are an example of how Internet-related issues can affect the accounting profession. The issue arose in the House's banking bill when the House Commerce Committee added a privacy protection amendment that would have locked the accounting profession out of access to financial information. Without access to the information, auditors would not be able to perform audits and consultants would not be able to offer a full scope of services. Through some nimble footwork, we got the audit problem fixed to everyone's satisfaction in the House Rules Committee. We're still tinkering with the fine print on the consulting piece of it, but substantial progress has been made to protect the broad spectrum or scope of services the profession offers.

Here's a brief look at some of the other e-commerce issues before Congress:

- ✓ **Internet Taxation**—The Advisory Commission on Electronic Commerce established by Congress last year held an organizational meeting in June and has scheduled its next meeting for September 14. The Commission is charged with studying what type of tax treatment should be applied to the Internet and examining whether states should be allowed to collect sales taxes from customers in states where the companies do not have a physical presence. Political controversy—over everything from who was appointed to how the Commission is funded—has plagued and delayed the Commission's efforts.
- ✓ **Encryption**—The business community believes that U.S. government export policy is damaging America's competitiveness and preventing e-commerce from reaching its full potential because U.S. companies cannot provide overseas customers with the highest levels of online security. H.R. 850 would eliminate export controls on strong encryption and limit the government's ability to restrict the export, manufacture or use of encryption technology; it is the primary vehicle for Congressional action. The over 200 cosponsors of H.R. 850 will try to bring the bill to the House Floor for a vote this fall, despite objections from the law enforcement community that the bill could make it easier for terrorists and other criminals to encode messages using advanced encryption software.

**E-Commerce...
(cont'd)**

- ✓ **Consumer Protection**—Lawmakers and regulators continue to seek a simple process that can be used to resolve disputes that arise when goods are purchased on the Internet. The Federal Trade Commission (FTC) in June held a workshop on consumer protection in the global electronic marketplace at which the AICPA testified about WebTrust (see page 2). WebTrust is an example of how the private sector is moving to ensure that consumers have adequate protection when buying goods and services on the Internet.
- ✓ **Electronic Signatures**—Congress looks set to pass, either this year or next, legislation that would prevent either party in a contract constructed online from disavowing the contract due to the absence of a physical written signature, so long as the identity of the contracting parties is properly authenticated.

**Congress Passes
Y2K Liability Bill**

The business community won another victory over abusive litigation in July when Congress passed, and President Clinton signed, a bill to limit lawsuits relating to Year 2000 (Y2K) disputes. Congress hoped its action would forestall a legal free-for-all over Y2K-related computer failures. The AICPA joined scores of other organizations in supporting the bill.

Under the new law:

- ✓ All companies responsible for a Y2K-related computer failure would equally share the legal liability and damages.
- ✓ Companies with fewer than 50 employees could not be assessed more than \$250,000 in punitive damages.
- ✓ All companies would have 90 days from the time they were notified of a problem to fix it before they could be sued.
- ✓ Class-action suits would be limited to 100 plaintiffs, and plaintiffs could not seek more than \$10 million in damages.
- ✓ Class-action suits would be tried in federal courts rather than state courts.

**AICPA Testifies
on Loan Loss
Reserves**

The AICPA briefed members of the House Banking Subcommittee on Financial Institutions and Consumer Credit about how financial institutions account for loan losses. The AICPA testified at a hearing to examine loan loss reserves and the efforts of federal regulatory agencies to establish clear loan and lease loss guidelines for banks. Martin F. Baumann, Chair of the AICPA's Task Force on Accounting for Loan Losses, which was formed in early 1999, testified for the Institute. The Task Force expects a proposed Statement of Position to be issued for public comment in August 2000 by the Accounting Standards Executive Committee, although Baumann told the Banking Subcommittee that the timetable could change, since the Task Force is just beginning its work.

On the Horizon...**Corporate Tax
Shelter Revisions**

The House Ways and Means and Senate Finance Committees this fall will scrutinize President Clinton's proposals to limit corporate tax shelters, which were made as part of the President's Fiscal Year 2000 budget. Preliminary evaluations by both committees began in the spring.

**Corporate Tax...
(cont'd)**

We told Congress then that we hold "no brief" with tax abuses, whether they "fall under the pejorative rubric of 'tax shelters' or any other part of our tax system." Thus, we sympathize with and support efforts to restrict improper tax activities through appropriate sanctions. Specifically we favor the Administration's recommendation regarding exploitation of the tax system by the use of tax-indifferent parties.

However, we also emphasized to Congress that we "support and defend the right of taxpayers to arrange their affairs to minimize the taxes they must fairly pay." We also outlined our objections to a number of the Administration's corporate tax shelter proposals. We charged that they are "an overbroad grant of power" to the IRS to impose "extremely severe sanctions on corporate taxpayers by applying standards that are far from clear and that could give examining revenue agents a virtual hunting license to go after corporate taxpayers," including small and medium-sized businesses.

We think the three most troubling features of the proposals are the absence of a clear standard defining what is and what is not an abusive transaction, the shift in authority from Congress to the IRS, and the broadness of the provisions, which could negatively affect legitimate tax planning.

**Senators Request
Hearings on
FASB Pooling of
Interest Project**

The Financial Accounting Standards Board's (FASB) project to eliminate "pooling of interests," an accounting method that has fueled many business mergers, triggered a call in July by two U.S. senators for hearings on the FASB proposal. The senators—Charles Schumer (D-NY) and Richard Shelby (R-AL)—have asked the Senate Banking Committee's Securities Subcommittee to hold hearings. We think a hearing will be held this fall; the hearing may also cover accounting for stock options and a tentative FASB project on the treatment of research and development costs, which FASB announced at the end of July it is postponing indefinitely. We continue to oppose Congressional intervention in the private sector standard-setting process and have asked AICPA Key Persons for those senators who serve on the Banking Committee to talk to their senators about the importance of keeping the standard setting process in the private sector.

**Senate Plans
Revisions to
Securities Laws**

We're keeping a close eye on the Senate Banking Committee's planned revisions to the nation's securities laws. While the thrust of this effort is aimed at overhauling the operations and oversight of the securities markets, we're watching to be certain that the revisions don't intrude on the accounting profession's ability to protect the public interest. Drafting of the bill is in the preliminary stage; but a bill is expected to be introduced this fall.

**Social Security
Reform Chances
Fade**

Chances for structural Social Security reform are waning. Reform bills have been introduced, but have failed to ignite into action. Floor action has been restricted to Republican "lock box" proposals that would prevent Social Security Trust Fund surpluses from being used to finance other government programs or tax cuts.

Congressional GOP leaders and the White House continue to test the waters for a bipartisan agreement, but no agreement is in sight.

AICPA Key Persons and AICPA Council members urged their members of Congress to use the AICPA's study on Social Security reform as a nonpartisan tool to evaluate Social Security reform when they visited lawmakers on Capitol Hill in May as part of the Spring Meeting of Council/Federal Key Person Coordinators' Conference.

**Curtailing
Government
Waste**

Lawmakers want to squeeze more wasteful and fraudulent spending out of the federal budget. Following up on a drive spearheaded several years ago by the AICPA to improve federal financial management practices, H.R. 1827, the Government Waste Corrections Act of 1999, was introduced by Rep. Dan Burton (R-IN), the chairman of the House Committee on Government Reform. H.R. 1827 would require executive branch departments and agencies to use a process called "recovery auditing" to review federal payment transactions in order to identify and recover erroneous overpayments.

The bill's introduction follows a General Accounting Office (GAO) review of the first government-wide consolidated financial statement. The GAO review revealed that improper payments to those supplying goods and services to federal departments and agencies is one of the most serious areas of government waste and error and that it's costing American taxpayers billions of dollars annually.

While recovery auditing is already used in a limited manner by the federal government, H.R. 1827 would expand the use of recovery auditing to all executive branch departments and agencies for payment activities of at least \$10 million dollars annually. The recovery audits could be conducted by in-house personnel or contracted out.

The House Subcommittee on Government Management, Information, and Technology has already held one day of hearings on H.R. 1827.

**Look for the CPA Vision CD-ROM
in the October issue
of the Journal of Accountancy**

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