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1945

Letters Re: Section 126 Problem

Walter A. Cooper

J. K. Lasser

Troy G. Thurston

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American Institute of Accountants

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THE NATIONAL ORGANIZATION OF CERTIFIED PUBLIC ACCOUNTANTS

13 EAST 41ST STREET, NEW YORK 17, N. Y.

February 26, 1945

To the Members of the
Committee on Federal Taxation

Gentlemen:

Enclosed please find copies of the following replies:

- (1) Mr. Walter Cooper's reply of February 23rd, regarding section 126 problem raised in Mr. Brown's correspondence to George Ellis.
- (2) Mr. J. K. Lasser's reply of February 22nd, regarding the section 126 problem.
- (3) Mr. J. K. Lasser's reply of February 22nd, regarding (a) approaching the President on the creation of a non-partisan tax commission and (b) expediting postwar tax credits and refunds, and
- (4) Mr. Troy Thurston's reply of February 16th, regarding expediting postwar tax credits and refunds.

Very truly yours,



Rebecca Newman Golub,
Technical Assistant

RNG:TS
Enc. (4)

PEAT, MARWICK, MITCHELL & CO.

ACCOUNTANTS AND AUDITORS
SEVENTY PINE STREET
NEW YORK, 5, NEW YORK

February 23, 1945

Mrs. Rebecca N. Golub, Technical Assistant,
American Institute of Accountants,
13 East 41st Street
New York 17, New York

Dear Mrs. Golub:

This refers to your communication of February 15 and its enclosures, the correspondence between Mr. Brown and Mr. Ellis.

I am not satisfied that the question involved is of sufficient importance to warrant our Committee taking action in the matter, nor is it altogether clear that in most cases contracts cannot be adequately drawn so as to make the transaction nothing more than a sale by the estate on which the basis would be the estate tax values.

Yours very truly,

(signed) WALTER A. COOPER

WAC-MEA

J. K. LASSER & CO.

ACCOUNTANTS & AUDITORS
1440 BROADWAY
NEW YORK, NEW YORK

February 22, 1945

Mrs. Rebecca N. Golub
American Institute of Accountants
13 East 41st Street
New York, New York

Dear Mrs. Golub:

I can't seem to get highly aroused on approaching the President on the creation of a nonpartisan tax commission. I just don't know anything about that kind of activity. On the other hand, I think it would be most advisable for the Institute to maintain the type of publicity recently issued describing its tax thinking.

I cannot get too excited about the proposal to make the postwar credit available quickly. Besides, I take it that the Congress is thoroughly apprised of that problem. I doubt that anything further need to be done. It has even been referred to in recent reports of the Office of Contract Settlement to the Congress. There are a great many other things that ought to be directed to the Congress, particularly -

The quantity of inequities to the small taxpayer
in the present Act

The extent of the controversies between the Treasury
and tax practitioners in the laws affecting
corporations -- especially the Excess Profits
Tax

On the other hand, I suppose the Congress, via Mr. Stam, is thoroughly acquainted with all that stuff.

Somewhere there ought to be a decision on whether it is the function of the Institute to collect material for transmission to Mr. Wales' office or to Mr. Stam's office, or whether it should, in addition, seek to acquaint the American public with the problems uncovered by the tax community. If the former is having no effect, I suppose the latter is a necessary evil. It might be the best way of securing results.

Very truly yours,

(signed)

J. K. LASSER

jkl-m

J. K. LASSER & CO.

ACCOUNTANTS & AUDITORS
1440 BROADWAY
NEW YORK 18, NEW YORK

February 22, 1945

Mrs. Rebecca N. Golub
American Institute of Accountants
13 East 41st Street
New York, New York

Dear Mrs. Golub:

Reference is made to your letter of February 15th
in connection with the Section 126 problem.

This problem has been discussed a great deal. See,
for example, the last Insurance Research & Review Service.
I gather that there are conflicting letters issued by the Treas-
ury Department and apparently those people are taking the matter
up at this time. Certainly the problem ought to be cleared up
by amendment if the Bureau persists in its position.

Very truly yours,

(signed) J. K. LASSER

jkl-m

GEO. S. OLIVE & CO.

CERTIFIED PUBLIC ACCOUNTANTS
CHAMBER OF COMMERCE BUILDING
INDIANAPOLIS, INDIANA

February 16, 1945

Mrs. Rebecca N. Golub, Technical Assistant
Committee on Federal Taxation
American Institute of Accountants
13 East 41st Street
New York, New York

Dear Mrs. Golub:

I favor some provision for expediting the recovery of carryback refunds. I think it would be unsound to permit complete recovery of such claims as originally filed, since it is to be expected that the average claim will be in excess of the final allowance. It is suggested that a procedure somewhat similar to that which is provided for deferring part of the tax under section 710 (a)(5) in cases of relief claims should be satisfactory. Under this theory it is suggested that a feasible plan in the case of claims based upon a carryback of an excess profits credit would be to allow the taxpayer to take an immediate credit up to 50 per cent of the claim against normal and surtaxes of subsequent taxable years. Any excess of such credit over the amount determined to be allowable should be subject to interest at the rate of 6 per cent per year.

In case of a refund claim based upon a net operating loss carryback, the problem would be less simple, because of the absence of a current tax liability to be applied as a tentative set-off. But the corporation presumably would be in more serious need of refund because of having suffered an operating loss. For such claims it might be feasible to provide for immediate payment of one-third to one-half of the amount claimed.

An important factor to be considered in advocating any provision affecting carrybacks is the risk that it might precipitate legislative activity toward elimination of the carryback provisions. However, I understand it to be the Committee's position that the carryback features should be eliminated after the war in favor of an unlimited carryover provision for net operating losses.

Yours very truly,

(signed) TROY G. THURSTON

TGT:dtw