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Tax Division Newsletter, Volume 9, Number 2, August 1993

American Institute of Certified Public Accountants. Tax Division

AICPA Tax Division Newsletter

American Institute of Certified Public Accountants AUGUST 1993

DIVISION NEWS

AICPA Continues Charge On Tax Simplification

1993 has seen two major developments in the AICPA's continuing emphasis on tax simplification. The first is the February 22 adoption of the "AICPA Policy Towards Needless Tax Law Complexities" (reprinted below). This policy succinctly states the importance the AICPA places on tax simplification and the lengths to which the Institute will go in opposing needless tax law complexity. The message in the policy has been, and will continuously be, carried to members of Congress by CPAs participating in the AICPA key person program and Institute staff.

AICPA Policy Towards Needless Tax Law Complexities

Political considerations and the need for revenue neutrality have caused hidden taxes and needless complexities in the tax system. These complexities are counterproductive to the economy and U.S. business. They have many hidden costs—growing taxpayer frustration with the tax system, reduced compliance that causes reduced tax revenues, and nonproductive use of resources.

The AICPA recognizes that consideration of economics and equity, as well as complex transactions, may require complex tax provisions. However, change is needed in the legislative process to stop the increasing complexity of our tax laws and to try, whenever possible, to move the system toward simpler alternatives. The AICPA stands ready to work with Congress to eliminate "back door" revenue raisers and to help develop more straightforward revenue-raising proposals.

We believe our government can, and should, be more open with the American people. If Congress has a tax policy goal or a need to raise revenue, it should be accomplished through simpler, more direct law changes.

A simpler tax system is one that first defines the tax base more directly and then raises revenue through adjustments of the rates — not by "smoke and mirror" provisions or acceleration of timing differences.

If Congress chooses to pay for a measure with a funding mechanism that contains needless complexities, the AICPA will actively oppose the measure. We will not necessarily be drawn into reworking the proposal to make it "less bad."

Further, if a measure which we had supported becomes in our view needlessly complex after Congressional compromise and modification, we will not hesitate to publicly withdraw our support or oppose the measure. ❑

> ***If the concepts embodied in the [AICPA Complexity] Index are consistently followed, the American people can look forward to far fewer headaches during January through April in the years ahead.***
>
> **—Harvey L. Coustan**
> **Tax Executive Committee Chairman**

Secondly, the Institute marked "Tax Simplification Day," April 16, by issuing the *AICPA Tax Complexity Index.* The index is a tool for measuring complexity factors as detailed in the AICPA's *Blueprint for Tax Simplification,* which was issued in 1992 (AICPA product # 061053). The purpose of the index is to assess the relative complexity (or simplification) of tax law proposals. It will be used by AICPA committees when developing legislative proposals and comments.

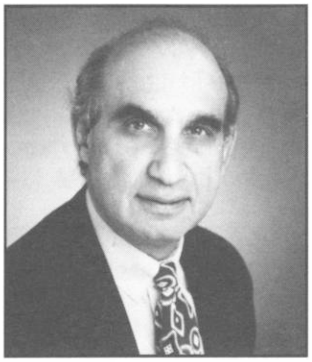
The index has been distributed to all members of the tax-writing committees of Congress and a number have already remarked that they have found it helpful.

To obtain a copy of the index please send a self-addressed 9" x 12" envelope with $.52 postage to Complexity Index, AICPA, 1455 Pennsylvania Avenue N.W., Suite 400, Washington, D.C. 20004 ❑.

*More **DIVISION NEWS** on page 3.*

In This Issue

CHAIRMAN'S COLUMN



Harvey L. Coustan, Chairman of the Tax Executive Committee.

A Busy Legislative Season

In this column, I will report the results of a very busy legislative season, but first I want to thank Peggy Richardson, our new IRS Commissioner, who spoke at the Tax Division plenary session. A number of us had breakfast with the Commissioner before her speech, and we were quite pleased with the informal interchange of ideas that took place. We look forward to a close working relationship with her.

We have spent considerable time over the past several months testifying before the House Ways and Means Committee and the Senate Finance Committee about the various provisions in the administration tax bill and meeting with staffs of the tax-writing committees and with Treasury. We also used those opportunities to press for estimated tax reform and emphasized our interest in the modernization of subchapter S. In addition we stressed that a number of the original proposals in the administration's package, most notably the investment tax credit, added substantial complexity to the tax law with very minimal taxpayer benefit in return.

Estimated Tax Relief

It appears quite likely that we will see a modification to the estimated tax rules which will restore certainty and tax planning potential to an area plagued with uncertainty and frustration. Both the House and Senate versions of the administration's tax bill restore a workable "prior-year's exception." Under the proposed legislation, taxpayers with adjusted gross income exceeding $150,000 in the preceding tax year can avoid a penalty for underpayment of estimated taxes by paying 110% of the prior-year's tax.

The Tax Division has spent considerable time over the two years since Congress introduced unworkable estimated tax rules to provide revenue to offset a 1991 extension to unemployment compensation benefits. As you know, the current law precludes certain individuals — those with adjusted gross income over $75,000 and whose adjusted gross income increases by more than $40,000 — from using the 100% of last year's tax safe harbor. Most of us refer to that safe harbor as exception one. These individuals can only avoid penalties by using current year's numbers and basing their estimated tax payments on 90% of the tax each quarter. Our members have complained that these amounts are impossible to calculate, because information is unavailable at the time the required estimated tax payments are due. Small business people who conduct their businesses as proprietors, partnership, or S corporations are particularly hard hit.

The 1993 bill's estimated tax relief is based largely on a bill introduced earlier by Senator Dale Bumpers (D-AR) with the co-sponsorship of a number of other senators. Senator Bumpers' bill, S. 739, was a direct result of meetings by Tax Division members and staff with staff members of the Senate Small Business Committee, chaired by Senator Bumpers. I want to take this opportunity to publicly thank Senator Bumpers, the co-sponsors, and their staffs for their sustained efforts to correct the 1991 bill's difficult approach.

Sub S Modernization

On June 22, we testified before the House Ways and Means Committee Select Revenue Measures Subcommittee regarding the subchapter S modernization package crafted by the S Corporation Taxation Committee together with the U.S. Chamber of Commerce and members of the American Bar Association Tax Section's S Corporation Committee. Rep. Benjamin Cardin (D-MD) submitted our legislative package for review by the subcommittee and at the hearing expressed considerable support for our efforts. This message was reinforced by Reps. L.F. Payne (D-VA) and Peter Hoagland (D-NE). We were extremely pleased that three important members of the Ways and Means Committee have expressed such a strong interest in subchapter S modernization.

On the Senate side, Senators David Pryor (D-AR) and Jack Danforth (R-MO) have authored a bill containing nearly all of our subchapter S reform proposals. We understand from the Senators' staffs that introduction of their bill is imminent. I want to congratulate the S Corporation Taxation Committee, chaired by Sam Starr, on the progress evident on this project, which appears to be fully a year ahead of the schedule originally suggested by that committee.

Progress on Simplification

Pam Pecarich and the Tax Legislative Liaison Committee she chairs have provided important and valuable leadership in our discussions on Capitol Hill. That committee, together with the Tax Simplification Committee, recommended, and

*More **Chairman's Column** on page 3.*

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Tax Division Vice President: Gerald W. Padwe **Directors:** William R. Stromsem and Edward S. Karl **Editor:** James A. Woehlke

CHAIRMAN'S COLUMN *Continued from page 2.*

the Tax Executive Committee approved, the Simplification Statement included with this Newsletter (p. 1). The Tax Simplification Committee, chaired by Janice Johnson, received Tax Executive Committee approval for the *AICPA Complexity Index,* a tool for determining the relative complexity of a tax law provision. The complexity index was sent to each member of the tax writing committees and is being used internally in the Tax Division as legislative proposals are being considered.

All in all, this has been a very productive period for the Tax Division in the legislative and tax policy arenas. I congratulate the committees I've mentioned for their excellent work and eagerly anticipate the good results their efforts should bring about. ❑

DIVISION NEWS *Continued from page 1.*

Disaster Area Practice Guide Wins Award

Congratulations to the Individual Taxation Committee and Joseph W. Schneid, its staff aide, for its work in developing the *Disaster Area Practice Guide* (AICPA Product Number 061056), which was issued in January 1993. This practice guide has been selected to receive the Award of Excellence from the American Society of Association Executives (ASAE).

The unique needs of victims following a natural disaster led to the publication of the practice guide as a tool CPAs can use to help victims put their financial lives back together. While issued by the Individual Tax Committee, special recognition is owed to Tim Cherry, Wayne Harvey, and Ken Strauss. Originally intended for those hit by Hurricane Andrew, the practice guide has grown so it is now applicable for victims of natural disasters, wherever they may occur.

ASAE's "Associations Advance America Awards of Excellence" recognize significant contributions to society by associations in areas such as education, product and safety standards, professional standards and codes of ethics, research and statistics, international activities, and community service.❑

Division Staff Continues To Seek Member Discounts

Stay on the alert for new Tax Division member discount offers! The Tax Division's staff is currently exploring member discount opportunities in several different product areas, including

- an annual tax guide
- code and regulations volumes
- CD-ROM research products
- tax analysis of the new tax law

Tax Division staff negotiates with vendors to obtain discounts for members. Using the 24,000 members of the Tax Section, the staff achieves substantial discounts that are particularly helpful to local practitioners who would not otherwise qualify for quantity discounts. The discount price is extended to members on the basis of the understanding reached by the vendor and the staff, but all contracts are between the member and the vendor.

Members are encouraged to take advantage of discounts to strengthen the section's negotiating power in the future. Tax Division staff reviews products to be sure they are legitimate, but does not endorse products. In general, the vendor pays for the direct and overhead cost of mailing the discount offering. Questions or comments about this important membership benefit should be directed to Bill Stromsem, an AICPA Director–Tax, at 202/434-9227. ❑

1993 Spring Tax Division Meeting Tapes Available

The audio tapes of the Spring 1993 Tax Division meeting in Washington, DC can be obtained directly from Conference Copy, Inc. The tapes include the following topics:

- Review of Recent Tax Division Activities (Harvey L. Coustan)
- The Commissioner's Agenda (the Hon. Margaret M. Richardson, Commissioner of Internal Revenue)
- View From the Hill (Pamela J. Pecarich and Deborah Walker)
- S Corporation Tax Proposals (Samuel P. Starr, Steve Glaze, and Mark Weinberger)
- VAT Politics and Prospects (Gerald W. Padwe, Beth Garrett, and Mark Weinberger)
- Consolidated Returns (Robert M. Rosen, William F. Huber, J. Paul Whitehead, Andrew Dubroff, John G. Broadbent and Wayne R. Strasbaugh)
- Tax Practice Management (Gary G. Ness, Mary Ellen McMillin and Robert I. Karon)
- Offers and Compromise...Non-filer Program (Howard T. Martin and Jim Helm)
- Luncheon Address (the Hon. Leslie Samuels, Assistant Treasury Secretary for Tax Policy)
- Tax Accounting Periods & Methods (James E. Connor, Lawrence Portnoy, Glenn R. Carrington, James B. Webb, Paul M. Ritenour, Stanley Seemann, Charles Strickland, and Brenda Wilson)

You can obtain these tapes by contacting Conference Copy Inc., 8435 Route 739, Hawley, PA 18428, tel. (717) 775-0580. If you call, you can arrange to get an order form and place your order by fax. When you contact Conference Copy, **be sure to refer to conference #285G.** ❑

TD FOCUS

AICPA-Sponsored Tax Designation: What Are Your Thoughts?

Today it is becoming increasingly difficult for any practitioner to "do it all." Thus, it is natural that CPAs will gravitate toward what they do best or enjoy most, that is, to specialize. It is also only natural in a profession of "certified" professionals that the question would eventually arise about "certifying", or accrediting, specialists.

The AICPA has been accrediting personal financial specialists since 1987 and may shortly begin an accreditation program for business valuators. The question has now arisen: Should the AICPA also accredit tax specialists? To help answer this question, the Tax Division will shortly survey 5,000 AICPA members.

This TDFocus discusses what specific questions we hope the survey will answer and details reasons for and against the AICPA's proceeding with an accredited tax specialty, or tax specialty designation. Finally, this TDFocus is an invitation to you to offer us your opinions whether or not you receive a survey.

Should the AICPA Accredit a Tax Specialty?

The survey will ask the threshold question: Should the AICPA accredit a tax specialty? This is not a referendum on whether the AICPA should accredit specialists in general. That decision was made several years ago, and, as mentioned, the AICPA has been accrediting one specialty and may shortly begin accrediting another.

The Tax Division is interested in two things:

- Would you personally participate in a tax specialty accreditation?
- What do you think an AICPA-sponsored tax specialty accreditation program should be like, even if you would not personally seek to obtain the specialty designation?

If you do not support the AICPA's proceeding with a tax specialty designation, you have the opportunity to express that opposition either via the survey document or the request for member opinions mentioned at the end of this TDFocus. But a mere statement of opposition is not the end of the information requested. The Institute needs to know not simply the degree of member support, but also what form such a designation would take, if there is sufficient member interest for one. Therefore, if you do not support the AICPA's proceeding with a tax specialty designation, please provide us additional guidance concerning what form a tax specialty designation should take if one is, nonetheless, established. A tax specialty designation, if one is created, should be shaped by all the members, because all members will be affected by it, and not only by those members who personally favor such a program.

What Is a "Tax Specialty"?

One question that arises in almost all discussions of accrediting a specialty in tax is: What is a tax specialist? Is it a CPA whose practice predominantly involves tax matters (a broad definition)? Or, is it a person who has a significant practice in S Corporations, or partnerships, or estate planning, or international taxation (a narrow definition)? CPAs base their opinions on accrediting a tax specialty, assuming that a specialty would, of necessity, be either broad or narrow. In fact, it can be either or both.

The Tax Specialization Task Force, which studied this area for the Tax Division, recommended that if the AICPA is to accredit a tax specialty, it should begin with a broad tax specialty. As time goes on, additional narrower specialties can be added as needed.

What Should Be Required of a Tax Specialty Designee?

Pursuant to requirements established by the AICPA Board of Directors, every candidate for an AICPA specialty accreditation must

- be an AICPA member
- hold a valid CPA certificate
- pass a written examination
- meet an experience requirement appropriate to the particular designation
- satisfy special CPE requirements established for the designation
- meet any other requirements deemed appropriate to the specialty

The Tax Specialization Task Force, in recommending that the AICPA use a broad tax specialty for its initial tax specialty designation, would set the minimum average annual experience requirement at 500 hours.

The survey will also evaluate this recommendation within the framework of the minimums established by the Board of Directors. In other words, the survey will ascertain if there is member support not merely for a tax specialty designation, but also if that member support would extend to an accreditation program with the specific requirements set out above.

TD POLL

From time to time, the staff or committees of the Tax Division may use the vehicle of a TD POLL to obtain information from you, the 24,000+ members of the Tax Division's membership section. This particular poll is being circulated by the Tax Accounting Committee to obtain ideas about how the Tax Division should approach workload compression.

The revisions to section 444 included in H.R. 4210 and H.R. 11 (as passed by the Congress but vetoed by the President last year) would not have helped solve the problem. Indeed, the proposed tax rate increases in the 1993 Budget Act will make it most difficult for taxpayers with existing section 444 elections to remain on a fiscal year. The AICPA has asked Members of Congress not to include section 444 changes similar to last year's bills in 1993 tax legislation. The Tax Division is working with the AICPA's Private Companies Practice Section and the Management of an Accounting Practice Committee to develop solutions to the workload compression experienced by most CPA firms. The Tax Accounting Committee would like to explore alternatives to the approach it has been taking and requests your suggestions on restoring a normal workload to CPAs.

Please take a moment to jot down your ideas, tear off this sheet, and return it to the Tax Division. While not necessary, it could be helpful to us if you also write in your name, address, and telephone number.

Name ____________________

Address ____________________

Name ____________________

Address ____________________

Telephone ____________________

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Reasons to Proceed — or not Proceed — with a Tax Specialty Accreditation Program

You may not have formed a definite opinion about an AICPA-sponsored tax specialty designation.To learn more on the subject, you may find these three recent articles of help.

- "Point/Counterpoint: Tax Specialization Accreditation: Both Sides of the Controversy", by Frank J. O'Connell, Jr., CPA and Bernard Werner, CPA, *The Tax Adviser,* May 1993, page 284.
- Is It a Good Idea to Accredit Specialists?", by James Shambo and Sheldon H. Eveloff, T*he Journal of Accountancy,* April 1993, page 41.
- "Accrediting a Tax Specialty: Is Now the Time?", by James A. Woehlke, CPA, *The Tax Adviser,* November 1992, page 767.

The Tax Specialization Task Force listed a number of the more common arguments favoring and opposing AICPA sponsorship of a tax specialty designation. These reasons are summarized below.

Reasons to Proceed

Those favoring a tax specialty designation argue:

- If the AICPA doesn't accredit a tax specialty, the states will. In fact, the Florida State Board of Accountancy has already initiated a CPA specialty licensing program including six specialty areas, one of which is a broad tax specialty designation. If accredited specialties are clearly in the future for the CPA profession, the question becomes, should the AICPA sponsor the accreditation programs or should it be left to the states, with a potential for lack of uniformity or reciprocity.
- Accrediting tax specialists will reduce public confusion and enhance the image of the profession. The public assumes all CPAs are tax experts when in fact many are not. Creating a tax specialty designation will help members of the public select those CPAs whose practices focus to some extent on taxation. The profession, by attempting to clarify the roles of CPAs in different areas of practice, will be perceived positively by the public.
- A tax specialty designation will help solve a number of tax practice management issues. Obtaining a tax specialty designation can be used by CPAs to distinguish themselves with their firms' managements. Firms will better focus their CPE efforts. Finally, by employing accredited tax specialists, firms can enhance their marketing efforts. Along this line, an AICPA-sponsored tax designation will help reduce the effect of tax designations offered by other organizations.

Reasons Not to Proceed

Those opposing a tax specialty designation argue:

- In the current legal environment, an AICPA-sponsored tax specialty designation can only increase CPA legal liability exposure. It is argued that those who obtain a tax specialty designation could be held to a higher standard in litigation. Also, arguably, CPA tax practitioners who do not obtain the tax specialty designation could be held to a higher standard as well, because plaintiffs' attorneys will point out that a tax designation exists and the defendant CPA chose not to go to the extra effort to obtain the credential.
- A tax specialty designation will accelerate the fragmentation of the profession and "water down" the CPA designation itself. The profession is already experiencing a serious fragmentation, with fewer and fewer CPAs being comfortable practicing in all the core practice areas that gave rise to the CPA profession, that is, accounting, audit, and tax. The AICPA should not accelerate that process by establishing specialty designations in any of those core areas.
- A tax specialty designation will increase, not decrease, public confusion. Currently a number of tax designations are sponsored by public accountants or lawyer organizations. In addition, the AICPA, itself, has a CPE program in tax (the Certificate of Educational Achievement, or CEA, in Tax) that appears to specially recognize CPAs who complete the program. (The CEA is not a specialty designation as such, but is an acknowledgement of a CPA's particularly strong interest in tax.) Adding a new designation to this list will confuse the public. Professional reputation has always been and will continue to be the best distinction both to attract clients and to minimize public confusion.

We Need to Hear From You!

If you have an opinion on the issue of whether the AICPA should proceed with a tax specialty accreditation program, please write us. Your letter should clearly state your opinion and the basis of that opinion. It would be particularly helpful if your letter covered the following areas:

- Should the AICPA begin a tax specialty designation program?
- If it does begin such a program (whether or not you believe it should), would the members be better served with a broadly defined tax specialty, or many narrowly defined specialties, or both?

Your letters will be studied by the Tax Division in arriving at a decision about its support for a tax specialty designation. Please send your letters to: Tax Specialization Accreditation, AICPA, 1455 Pennsylvania Avenue, NW, Suite 400, Washington, DC 20004-1081. ❑

COMMITTEE HIGHLIGHTS

Tax Policy Statement on Corporate Tax Integration Issued

The Tax Division has issued *Statement of Tax Policy 10, Integration of the Corporate and Shareholder Tax Systems,* and sent the statement to all Tax Division members. Additional copies may be obtained from the AICPA Order department by calling (800) 862-4272 and ordering product number 058210. The cost is $10.00 plus shipping. ❑

Division Issues Numerous Regulations Comments

Thus far in 1993, Tax Division committees have issued the following comments on open regulations projects. If you would like to obtain a copy of one or more of the comments packages, please send a self-addressed 9" x 12" envelope with the total postage (the sum of the postage amounts indicated below) to Tax Division Comments, AICPA, 1455 Pennsylvania Avenue N.W., Washington, D.C. 20004.

- Comments on Temp. Reg. § 1.6038-2, relating to IRS form 5471 (postage $.52)
- Comments Regarding Prop. Reg. § 1.964-1(c), relating to computation of earnings and profits under IRC section 964 (postage $.52)
- Comments on Proposed Regulations §§ 1.382-1 to 1.382-4, relating to option rules (postage $.75)
- Comments Regarding Proposed Consolidated Return Regulations Issued November 10, 1992 (postage $.75)
- Comments Regarding Proposed Consolidated Return Regulations Issued December 29, 1992, relating to consolidated alternative minimum tax rules (postage $.75)
- Comments on Prop. Reg. § 1.514(c)(9)(E), regarding the application of section 514(c)(9)(E) to partnerships in which one or more (but not all) of the partners are qualified organizations as defined in section 514(c)(9)(C) (postage $.52)
- Comments on Prop. Reg. § 20.2056A, regarding qualified domestic trusts (postage $.98)
- Comments on Announcement 93-2, concerning proposed examination guidelines regarding colleges and universities (postage $.52)
- Comments on proposed regulations regarding the taxation of corporate sponsorship payments (postage $.52)
- Prerelease comments under IRC § 1366, relating to passthrough of items to S corporation shareholders (postage $.52)
- Comments on proposed regulations under IRC § 1374, relating to the built-in gains tax (postage $.75)
- Comments on Prop. Reg. § 1001-3, relating to modification of debt instruments (postage $.52) ❑

Seasonality Practice Guide Issued

The AICPA Management of an Accounting Practice Committee has issued *Seasonality: Practitioners' Suggestions for Managing Work Load Compression.* The 56-page guide includes practice suggestions involving firm strategy, human resources, billing and collection, and off-season, nonchargeable projects. The guide may be obtained from the AICPA Order department by calling (800) 862-4272 and ordering product number 090400. The cost is $25.00 plus shipping. ❑

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