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Report to Council of the American Institute of Certified Public Accountants, Denver, Colorado, September 30, 1972

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REPORT OF ROBERT G. SKINNER TO COUNCIL OF THE AMERICAN INSTITUTE
OF CERTIFIED PUBLIC ACCOUNTANTS

Denver, Colorado

September 30, 1972

Last week, three high-level Federal government officials addressed a major industry group on the West Coast. These officials were:

- Carl Curtis, Senator from Nebraska--a member of the Senate Finance Committee, and a former member of the House Ways and Means Committee;
- Al Ullman, a Congressman from Oregon, and a current member of the House Ways and Means Committee; and
- John Richardson, who was recently appointed Tax Legislative Counsel for the Treasury Department.

Their topic: proposed tax legislation, including tax reform--a subject that has been very much in evidence during the past several months--in the newspapers, in professional and business journals, on radio and television, in presidential campaign rhetoric and on the street. Whether we like it or not, it certainly appears that our tax system is in for a substantial overhaul before this time next year.

Since the prospects for the future are so likely to involve matters that have occupied so much of our Tax Division's time in the past and are likely to require so much of the Division's time in the months ahead, I want to take advantage of this opportunity to report to you on

the tax legislative picture as I now see it--and how it may affect us individually and professionally.

While no one (except, possibly, Jeane Dixon) can precisely predict the shape and form of our tax structure a year from now, there are signs and factors that should significantly affect the picture.

The Federal budget for the current fiscal year calls for expenditures of more than \$246 billion. Estimates of this year's deficit range from \$27 billion to \$45 billion. Even with the sunniest disposition and the rosier glasses, it is difficult to see how any rational American can forecast over-all tax reduction within the scope of any tax reform package for next year. In fact, tax increases seem almost inevitable.

In its recently released mid-year report, the Joint Economic Committee stated:

"The pretense that additional revenues will not be needed should be abandoned in favor of a constructive discussion of how these revenues can be obtained."

The report recommended that needed revenues should be obtained through reform of the income and inheritance taxes and not through regressive new taxes.

Senator Curtis made these interesting observations on the Coast last week. He said that if all individual taxable income in excess of \$100,000 were to be taxed at a 100% rate (on a joint return basis), the resulting increase in Federal revenue would be approximately \$.9 billion (\$900 million). Using a \$246 billion budget and a mere \$27 billion

deficit for the current year, this additional revenue would run the Federal government about 29 hours. The Senator then said that if all individual taxable income in excess of \$50,000 were to be taxed at a 100% rate (again, on a joint return basis), the increase in Federal revenue would be about \$2.1 billion. Using the same criterion as before for this year's Federal expenditures, this \$2.1 billion would run the Federal government a little less than 3 days. Senator Curtis observed finally that if all individual taxable income in excess of \$25,000 were to be taxed 100% on a joint return basis, the resulting increase in Federal revenue would be approximately \$5.5 billion. Using our standards of measurement, this \$5-1/2 billion would pay the Federal government's expenses for less than 7-1/2 days.

These figures indicate that if any significant additional revenues are proposed to be raised from income taxes on individual taxpayers, a substantial portion of the burden of the additional taxes would have to fall on individuals with less than \$25,000 of taxable income a year.

The Institute, through its tax group, for many, many years has felt a responsibility to speak out on proposed changes in our tax system. In generating its comments, this group--now the Tax Division--has reacted to legislative proposals initiated by Congressmen, by Administration officials and by others. In addition, it has initiated its own proposals for legislative improvements in our tax system.

By coincidence--activated by the catalysts of inflation, social change, rocketing state and local taxes, general unrest and political expediency--the immediate demands for tax reform will undoubtedly require comprehensive reaction at a time when many of the legislative proposals that we have initiated will require attention and follow-up.

As you know, our self-initiated proposals have been formalized, biennially, into a booklet of Recommendations for Amendments to the Internal Revenue Code. Each revised booklet is submitted to the House Ways and Means Committee, with copies to all other Congressmen. The proposals are discussed with Treasury officials and with the staff of the Joint Committee on Internal Revenue Taxation. The recommendations contained in our current booklet--and those which will appear in our 1973 edition--are generally of a substantive, technical nature. They are intended to clarify and simplify complex provisions, to eliminate outdated provisions and to remedy inequities. These booklets have served as useful "action" documents, as well as focal points for discussing proposed changes with Congressional and Administration leaders.

In addition, during the past few years, our Tax Division, the Tax Section of the American Bar Association and Dr. Laurence Woodworth, Chief of Staff of the Joint Committee on Internal Revenue Taxation, have collaborated on a joint legislative package of technical amendments, embodying a number of recommendations contained in our latest booklet. This package includes twenty-six legislative proposals made by the AICPA and the ABA, and is commonly referred to as the ABA-AICPA Technical Amendments Act. It was previously approved by the Treasury Department, the Department of Justice

and the Internal Revenue Service as noncontroversial. We have recently received word that this proposal may be included in the Treasury's legislative package later this year.

Now, back to the tax reform proposals that threaten to merge with or submerge our ongoing legislative work in process. Most of you will recall that at the end of May, Congressman Wilbur Mills, Chairman of the House Ways and Means Committee, introduced a bill that would require Congressional review of 54 items in the Internal Revenue Code which provide for special exclusions or deductions--or preferential rates. For example, here are a random dozen of the items covered by the Mills bill:

- The surtax exemption on the first \$25,000 of corporate taxable income;
- The exclusion from gross income of interest on State and municipal obligations;
- The \$100 dividends-received exclusion;
- The \$750 exemptions for attaining age 65 and for blindness;
- The deduction of nonbusiness interest;
- The deduction of nonbusiness taxes;
- Allowances for accelerated depreciation;
- The asset depreciation range (ADR) system;
- Deductions for charitable contributions;
- Deductions for medical expenses;
- Tax exemption for domestic international sales corporations (DISCs); and
- The alternative tax on capital gains.

The Mills review would be spread over a 3-year period, and any item not reaffirmed by Congress would terminate automatically at the end of the review period. The Mills bill flabbergasted many of his countrymen--and his associates on the House Ways and Means Committee. It prompted Al Ullman to request the staff to prepare another bill covering the same 54 items, but simply calling for a Congressional review during 1973 and 1974--without the automatic phase-out feature. The Ullman bill also calls for simplification, a broadening of the income tax base, and a revision of the estate and gift tax provisions which were by-passed by the Tax Reform Act of 1969. Since Wilbur Mills expressed a preference for the Ullman bill over his own bill in a speech earlier this month, it is reasonable to expect the matters and approach in that bill to be considered by the House Ways and Means Committee next year.

The Administration's tax reform package appears to be wrapped and sealed with a "do not open" sticker until after the election.

In anticipation of next year's legislative hearings, the Executive Committee of the Tax Division has jumped the gun and already assigned the various provisions of the Ullman bill to 116 members of the Division for study, reaction, comment and recommendations. This should enable us to at least get a good start on many of the tax reform proposals likely to be urged next year.

Prominent among the current and imminent tax legislative considerations are these subjects:

- The taxation of capital gains;
- The value added tax (VAT);
- Federal estate and gift tax reform; and
- Changes in the private pension system.

For the past two years our Tax Policy Committee and a special study group have been working on a proposed position paper on the taxation of capital gains. We expect to have a draft paper on this subject ready for review at our December meeting. The research, study and thought in this area should be very helpful in developing our legislative recommendations regarding the Federal income tax treatment of capital gains.

Our Tax Policy Committee and another special study group have been working for some time on the value added tax concept. The objectives in this area have generally been exploratory and fact-finding in nature. Thus far, these groups have prepared a preliminary report explaining how VAT works, the application of the tax, the advantages and disadvantages of the concept, and its potential impact on our current tax system. Presentations on VAT by representatives of these groups have been made for the benefit of the entire Tax Division, for members of the ABA's Section of Taxation, and for others. Despite the considerable opposition to this tax for our system of taxation, it is not unreasonable to anticipate that VAT will be discussed in Congress next year. This preparatory work will, of course, enable us to react on a much better-informed basis.

For the past two years, our Committee on the Taxation of Estates, Trusts and Gifts, assisted by another special study group, has been seeking to prepare a comprehensive position paper on estate and gift tax reform. We hope to have this paper ready in time for it to be useful during the Congressional deliberations in this important area.

We have appointed a special advisory group to study the area of employee benefit plans and to suggest improvements in this connection. This group was very helpful in preparing the testimony that I presented on May 10th before the House Ways and Means Committee with reference to a proposed "Individual Retirement Benefits Act." That legislation proposed to:

- Provide income tax deductions for retirement savings by employees who are not covered by employer-financed plans or who participate in plans with inadequate benefits.
- It proposed to provide minimum standards for the vesting of benefits under qualified pension and profit-sharing plans--and for participation in those plans; and it proposed
- To raise the limits on deductible contributions that may be made to retirement plans established by self-employed individuals.

The major thrust of our testimony was that more equality should exist between qualified pension and profit-sharing plans for self-employed individuals and their corporate counterparts.

Before concluding these remarks on the current prospects for legislative changes in the substantive provisions of the Code, I want to emphasize what I consider to be an increasingly urgent need for simplification of our tax laws. There has to be something radically wrong with a self-assessment system that requires the majority of the self-assessors to engage professional help to determine the proper amount of their assessments. Or, as Congressman Ullman put it, "We have to simplify the Code--starting with the next session of Congress--so lawyers won't have to go to other lawyers to find out what the provisions are all about."

In a way, tax simplification is like God and motherhood. Everybody is for God, motherhood and tax simplification! We pay lip service to tax simplification, and we don't take it seriously enough--until it's too late. I hope that we can effectively promote greater over-all simplification in the next major tax legislative package. Failure may lead to further lack of confidence in our tax system, greater corruption in compliance with the tax laws, and a complete breakdown of our self-assessment system. We should guard against adding more complexities and ambiguities on the accumulation of complexities and ambiguities already in the Code--in the process of reforming it.

This leads me to one final tax legislative matter--for the purposes of this report. This matter relates to the regulation of return preparers.

Last December, the Internal Revenue Service informed us that it was studying the matter of regulating tax return preparers, and it asked for our suggestions on a number of proposals which it had under consideration.

A report of our suggestions was submitted to the Service in March. This Service study was initiated as the result of constantly increasing Congressional and public concern with commercial tax return preparers.

Very shortly afterwards, Congressman John Monagan, Chairman of the Legal and Monetary Affairs Subcommittee of the House Committee on Government Operations, announced that his Subcommittee would conduct hearings on the regulation of return preparers. The basis of these hearings was a bill introduced by Mr. Monagan which would require the Treasury Department to report annually on the nature and level of IRS taxpayer assistance programs, and authorize the Secretary of the Treasury to promulgate regulations governing the qualifications and standards of conduct for return preparers.

On April 18, I appeared before the Monagan Subcommittee to present testimony on behalf of the Institute. The essence of that testimony was reported in the June issue of The Tax Adviser. Our views were very similar to the views of the Bar's Tax Section--and similar to the policies favored by the I.R.S. The August 1 proofs of the 1972 Forms 1040 and 1040A indicate that a variation of our suggestion may be instituted. These proofs call for the preparer's employer identification or Social Security number

which, of course, can be coded in computer processing of the 1972 returns-- so that all returns prepared by a complying preparer can be retrieved for I.R.S.'s review and examination, if desired.

Ladies and Gentlemen, the members of the Tax Division are braced for a challenging and exceptionally busy year ahead. We believe the Congress will see to that! In an effort to be helpful to the political leaders of this nation, I remind them of the advice of another outstanding national leader, who said:

"You cannot bring about prosperity by discouraging thrift. You cannot strengthen the weak by weakening the strong. You cannot help the wage earner by pulling down the wage payer. You cannot further the brotherhood of man by encouraging class hatred. You cannot help the poor by destroying the rich. You cannot keep out of trouble by spending more than you earn. You cannot build character and courage by taking away man's initiative and independence. You cannot help men permanently by doing for them what they could and should do for themselves."

This advice was given a long time ago by a man who now resides at Mount Rushmore--Abraham Lincoln.