BNA, INC.

DAILY TAX REPORT

NUMBER 180 MONDAY, SEPTEMBER 20, 2010

HIGHLIGHTS

Finance Panel to Begin Examination of Tax Code in Advance of Reform

Fundamental tax reform will take center stage this week when the Senate Finance Committee holds a hearing focusing on both the corporate and individual sides of the Internal Revenue Code. According to an announcement, the hearing will be the first in a series and will specifically look at lessons learned from the overhaul that resulted in the Tax Reform Act of 1986. The notice says the hearing will look at ''ideas for tax reform that will make the code simpler and fairer, while helping American businesses compete in the global economy.'' **G-2**

S Corp Allies Cheer Payroll Tax Change Removal in Extenders Bill

Small business supporters praise Senate Democrats' decision to shelve a $9 billion provision that would toughen payroll tax rules affecting S corporations, though no one seems to doubt that the provision will return in the future. The provision, included as a key source of new revenue to pay for part of the tax extenders legislation before the Senate, would have clarified that service professionals at S corporations and certain partnerships cannot avoid paying Medicare and Social Security taxes by routing large portions of their income through payroll tax-exempt forms of compensation. **G-7**

Judge Won't Amend Finding Estate Entitled to $60.4 Million in Deductions

A Texas district court judge issues an opinion declining to amend his finding that the co-executors of an estate were entitled to a tax refund and an opinion finding that the estate was entitled to a $60.4 million deduction for interest, fees, and administrative expenses. In a previous ruling the judge for the U.S. District Court for the Southern District of Texas found that the estate of Maude O'Connor Williams was entitled to deduct the interest on a loan from an investment partnership set up by her financial advisers to two trusts she controlled. Judge Rainey finds the loan to be a necessary administrative expense. **K-5**

BNA INSIGHTS: Plan Filing Obligations Remain Despite FBAR Relief

Karen Simonsen, Todd Solomon, and James Isaac of McDermott Will & Emery LLP write that IRS has recently issued several pieces of guidance related to the filing of the Report of Foreign Bank and Financial Accounts, IRS Form TD F 90-22.1, by pension plan sponsors. ''This guidance relieves certain filing obligations, such as the requirement for plans to file an FBAR for foreign hedge fund investments for 2009 and prior years. However, other filing obligations remain,'' the authors write. ''Plan sponsors with foreign financial accounts should consider their FBAR filing obligations and determine whether the upcoming June 30, 2011, filing deadline applies to them.'' **J-1**

Plan Sponsors Urged to Prepare for New Standards for Fee Disclosure

Plan sponsors need to ''get their ducks in a row'' and be ready to comply with the Labor Department's interim final rules on plan service provider compen-

TEXT

ELECTRONIC FILING: IRS Rev. Proc. 2010-33 updating specifications for electronic filing of Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding. **TaxCore**

INTEREST: IRS Rev. Rul. 2010-24 setting applicable, adjusted federal interest rates for October 2010. **Taxcore**

CHARITABLE CONTRIBUTIONS: IRS Announcement 2010-57 listing organizations no longer qualified to receive tax-deductible contributions. **TaxCore**

CHARITABLE CONTRIBUTIONS: IRS Announcement 2010-58, correcting Announcement 2010-55, revoking organizations' eligibility for tax-deductible contributions. **TaxCore**

EDUCATION: CRS report, *Saving for College Through Qualified Tuition (Section 529) Programs*. **Taxcore**

INDIVIDUAL TAXES: CRS report, *The 3.8% Medicare Contribution Tax on Unearned Income, Including Real Estate Transactions*. **Taxcore**

TAX GAP: Taxpayer Advocacy and Government Accountability Promotion Act of 2010 (S. 3795), by Sen. Carper. **Taxcore**

TAXCORE: *For a complete listing of today's full text documents, look in the contents section.*

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sation arrangements, according to attorneys speaking at a BNA-sponsored webinar. The Labor Department pursued these initiatives in response to changes in service delivery business models, class actions and other litigation targeting revenue sharing, political pressure from Congress, and market forces, says attorney Andrew L. Oringer, a partner in the tax and benefits department of Ropes & Gray, New York. **G-6**

IRS Updates Requirements for Filing Forms 1042-S Through FIRE System

IRS issues Revenue Procedure 2010-33 updating specifications for electronically filing Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding. The procedure must be used to prepare returns filed through IRS's Filing Information Returns Electronically (FIRE) system during 2011, the service says. Every withholding agent must file an information return on Form 1042-S to report U.S.-sourced income paid during the preceding calendar year. **G-1**

Intercompany Dividends Excluded From Parent's PHC Calculations

The IRS Office of Chief Counsel, in informal legal advice, says intercompany dividends received by a parent corporation from a non-personal holding company subsidiary are excluded from calculations of the parent's adjusted ordinary gross income for purposes of determining whether the parent is a PHC. Under the facts presented, the parent company of an affiliated group of corporations excluded subsidiary dividends from its adjusted ordinary gross income. A revenue agent concludes the taxpayer is not a personal holding company because it must include the dividends, and including the dividends in AOGI reduces personal holding company income to less than 60 percent of AOGI. **K-1**

SEC Proposes to Require More Disclosures About Short-Term Loans

The SEC unanimously votes to propose rules to require public companies to disclose more information about their short-term borrowings to give investors a clearer picture of the companies' ongoing liquidity and leverage risks. The SEC also unanimously votes to issue an interpretive release on how existing ''management discussion and analysis'' disclosure requirements apply with respect to liquidity and funding. Short-term borrowings—loans that mature in a year or less—have become increasingly common, and include financing arrangements such as commercial paper, letters of credit, promissory notes, and repurchase agreements. **G-4**

FASB Requires Participant Loans to Be Accounted for as Receivables

FASB approves a narrow-scoped accounting proposal requiring that loans made by defined contribution retirement plans to plan participants be accounted for as receivables rather than as investments. The guidance requires that participant loans be measured at their unpaid principal balance plus accrued but unpaid interest. **G-2** . . . FASB issues a discussion paper on financial reporting for insurance contracts with an aim to solicit further stakeholder input on how to tackle and improve accounting issues unique to that industry. The board is seeking comments by Dec. 15. **G-5**

WCO Investigating Utility of OECD Transfer Pricing Methods, Official Says

A World Customs Organization official says the organization is evaluating which methods under the OECD's transfer pricing guidelines could be utilized for customs valuation purposes. **I-1**

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Daily Tax Report

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INDEX EDITORS: J. Kelley Summers, Manager; Lorraine Sorrel
GRAPHICS: Cordelia D. Gaffney, Manager; Mike Foley
DAILY TAX REPORT (ISSN 0092-6884) is published daily, Monday through Friday, except for federal holidays, at the annual subscription rate of $4,073 for a single print copy.

BNA
1801 S Bell Street
Arlington, VA 22202
Telephone: 703-341-5858
Fax: 703-341-1660
Email: dtr@bna.com
Correspondence concerning editorial content should be directed to the managing editor. For customer service, documents, or research call 800-372-1033 or 703-341-3500.

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For full-text tax documents and IRS hearing transcripts refer to: http://news.bna.com/tcln/. To register for *TaxCore* contact BNA Customer Relations at 800-372-1033.

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Federal TAX & ACCOUNTING

Electronic Filing

IRS Updates Requirements for Filing Forms 1042-S Through FIRE System

The Internal Revenue Service in Revenue Procedure 2010-33, scheduled for publication Sept. 20 in Internal Revenue Bulletin 2010-38, updated specifications for electronically filing Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding.

The procedure must be used to prepare returns filed through IRS's Filing Information Returns Electronically (FIRE) system during 2011, the service said.

IRS said every withholding agent must file an information return on Form 1042-S to report U.S.-sourced income paid during the preceding calendar year. The form must be filed even if no tax was withheld because the income was exempt under a U.S. tax treaty or the Internal Revenue Code. Those required to file Form 1042-S must also file Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons.

Amounts paid to bona fide residents of U.S. possessions and territories are not subject to reporting on Form 1042-S if the beneficial owner of the income is a U.S. citizen, national, or resident alien, the service added.

Among other changes in the instructions, IRS noted the contact name has changed from IRS/ECC-MTB to IRS/IRB, for Information Returns Branch, with Mail Stop 4360 added to the mailing address.

IRS said Rev. Proc. 2010-33 supersedes Rev. Proc. 2009-35 (166 DTR G-1, 8/31/09) and will be reproduced as the current revision of Publication 1187, *Specifications for Filing Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, Electronically*.

Text of Rev. Proc. 2010-33 is in TaxCore.

Tax Legislation

Coburn Proposes Bill Barring Tax Delinquents From Federal Jobs

Individuals with "seriously delinquent tax debts" would be ineligible for employment in the federal government under a bill (S. 3790) introduced Sept. 16 by Sen. Tom Coburn (R-Okla.).

"Taxpayers are fed up with those in Washington living under a different set of rules than the rest of America. At a time when Congress may allow taxes to increase on some or even all Americans, Congress should not expect other Americans to pay more taxes when they are not even paying the taxes they owe under the rates they set themselves," Coburn said in a statement.

The bill, which currently has four co-sponsors, would make ineligible for federal employment those with a seriously delinquent tax debt, defined as "an outstanding debt under the Internal Revenue Code of 1986 for which a notice of lien has been filed in public records," with some limited exceptions.

An identical version of the bill (H.R. 4735) was introduced in the House in March by Rep. Jason Chaffetz (R-Utah) (51 DTR G-3, 3/18/10).

Coburn noted that the Internal Revenue Service in 2009 found almost 100,000 federal civilian employees delinquent on their federal income taxes, owing over $1 billion.

A second bill (S. 3791) would require the ethics committees of Congress to immediately open an inquiry into any tax delinquencies of members of Congress and would immediately garnish the wages of any member owing federal taxes.

Texts of S. 3790 and S. 3791 are in TaxCore.

Education

CRS Report Describes Section 529 Plans Including Qualification of Computer Costs

The Congressional Research Service released a report Sept. 13 that updated the benefits and problems of qualified tuition programs that help families save for college expenses to include additions from the 2009 Recovery Act.

The American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) extended qualified higher education expenses for tax code Section 529 plans to include computer technology or equipment, or internet access and related services, for 2009 and 2010.

Section 529 plans allow families to save for qualified higher education expenses on a tax-deferred basis through investment plans. Qualified higher education expense withdrawals are tax-free for both types of saving plans, college savings plans and prepaid tuition plans.

The most popular type of Section 529 plan, the college savings plan, lets investors pick from a variety of portfolios, making the plan more risky but with the possibility of higher returns, according to the report. The stock market downturn in the last few years hurt many college saving plans, which could cause families to worry about making up losses in a short period of time, the report said.

The Treasury Department released recommendations (173 DTR G-4, 9/10/09) in September 2009 that encouraged states to offer age-based investment funds and eliminate home-state bias, where states offer deductions or credits for investments in their own plans but not to other states' plans.

The CRS report, **Saving for College Through Qualified Tuition (Section 529) Programs**, *is in TaxCore.*

Accounting

FASB Finalizes GAAP Requiring Participant Loans to Be Accounted for as Receivables

NORWALK, Conn.—The Financial Accounting Standards Board Sept. 16 approved a narrow-scoped accounting proposal requiring that loans made by defined contribution retirement plans to plan participants be accounted for as receivables rather than as investments.

The guidance requires that participant loans be measured at their unpaid principal balance plus accrued but unpaid interest. It is effective retrospectively for periods ending after Dec. 15, 2010, with early adoption allowed.

Following the Emerging Issues Task Force unit's move to ratify as final Issue No. 10-C, Reporting Loans to Participants by Defined Contribution Pension Plans, FASB members unanimously voted to ratify the unit's vote as final generally accepted accounting principles. EITF Chairman Russell Golden told FASB members the final Accounting Standards Update (ASU) is expected to be issued by Sept. 21 or 22.

The EITF said participant loans would be exempt from the disclosure requirements of ASU No. 2010-20, Disclosures about the Credit Quality of Financing Receivables and the Allowance for Credit Losses.

Update 2010-20 requires extensive disclosure regarding the credit quality of finance receivables but the task force said that the credit risk associated with individual participant loans is not relevant to the users of the plan financial statements.

Backdrop. In practice, most participant loans are carried at their unpaid principal balance plus any accrued but unpaid interest, which was considered a good faith approximation of fair value. However, some stakeholders questioned whether that measurement conforms to Topic 820, which requires the use of observable and unobservable inputs such as market interest rates, borrower's credit risk, and historical default rates to estimate the fair value of participant loans.

Other stakeholders have questioned whether the use of those assumptions would result in information that is useful.

The EITF said it received 19 comment letters on its proposed accounting standards update, which was issued Aug. 18 with a comment period that ended Sept. 7 (160 DTR G-1, 8/20/10).

BY DENISE LUGO

Text of the handouts related to EITF discussions is available at http://www.fasb.org/jsp/FASB/Page/SectionPage&cid=1218220137532.

Interest

IRS Sets Applicable, Adjusted Federal Interest Rates for October

The Internal Revenue Service Sept. 17 announced in Revenue Ruling 2010-24 the applicable federal interest rates and adjusted applicable federal rates for October 2010.

The revenue ruling updated the September rates set in Rev. Rul. 2010-20 (159 DTR G-1, 8/19/10).

The short-term annual applicable federal rate is 0.41 percent, the midterm annual applicable federal rate is 1.73 percent, and the long-term rate is 3.32 percent.

As for the annual adjusted federal rates, the short-term rate is 0.44 percent, the midterm rate is 1.30 percent, and the long-term rate is 3.45 percent.

The revenue ruling also included for October:

- the Internal Revenue Code Section 382 adjusted long-term rate and the long-term tax-exempt rate for ownership changes;
- the appropriate percentages for the 70 percent and 30 percent present value low-income housing credit under Section 42(b)(1); and
- the Section 7520 rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest.

Rev. Rul. 2010-24 is scheduled to appear in Internal Revenue Bulletin 2010-40, dated Oct. 4.

Text of Rev. Rul. 2010-24 is in TaxCore.

Tax Reform

Finance Committee to Begin Examination Of Tax Code in Advance of Reform

Fundamental tax reform will take center stage Sept. 23 when the Senate Finance Committee holds a hearing focusing on both the corporate and individual sides of the Internal Revenue Code.

According to a Sept. 17 announcement, the hearing will be the first in a series and will specifically look at lessons learned from the overhaul that resulted in the Tax Reform Act of 1986. The notice said it would look at ''ideas for tax reform that will make the code simpler and fairer, while helping American businesses compete in the global economy.''

Chairman Max Baucus (D-Mont.) has not endorsed any particular tax reform legislation, including the Bipartisan Tax Fairness and Simplification Act of 2010 (S. 3018), introduced in February by fellow tax writer Ron Wyden (D-Ore.) and Budget Committee ranking member Judd Gregg (R-N.H.) (35 DTR G-11, 2/24/10).

The Wyden-Gregg bill has been the subject of a handful of discussions among tax policy analysts and even the tax working group of President Obama's fiscal commission. Their plan would cut the six individual tax brackets down to three, eliminate the alternative minimum tax, nearly triple the standard deduction, and make a host of corporate tax changes including repealing the deferral of taxes on foreign income by U.S. companies.

Ways and Means Panel. Across the Capitol, an aide to the Ways and Means Committee said the timing of that panel's tax reform hearings is still unclear. Committee spokesman Matthew Beck made it clear, however, that an overhaul is on the agenda. ''Tax reform is certainly an issue of high priority for members of the committee,'' he told BNA.

House Democrats have not offered a comprehensive face-lift of the tax code since former Ways and Means Committee Chairman Charles Rangel (D-N.Y.) released

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a 1.3 trillion plan in 2007 that died at the end of the 110th Congress (207 DTR GG-1, 10/26/07).

Witnesses at Finance Committee Hearing. The witnesses at the Finance Committee hearing will be:

- Dick Gephardt, former House majority leader (D-Mo.) and former chairman of the Ways and Means Committee;
- Bill Archer, former chairman of the Ways and Means Committee (R-Texas);
- Buck Chapoton, a former assistant treasury secretary for tax policy under President Reagan; and
- Randall Weiss, former deputy chief of staff of the Joint Committee on Taxation.

More information about the Sept. 23 hearing, which begins at 10 a.m., is available at http://finance.senate.gov/hearings/hearing/?id=1d2a7636-5056-a032-5282-4bb7cf0d5078.

Individual Taxes

CRS Discusses Application of 3.8 Percent Medicare Contribution Tax Beginning in 2013

A Congressional Research Service report released Sept. 15 summarizes the 3.8 percent Medicare contribution tax on non-wage income set to begin s in 2013.

''The tax has been labeled by some as a 'home sales tax' or 'real estate tax, ' '' according to the report. However, the tax, established in the Health Care Reconciliation Act of 2010 (Pub. L. No. 111–152) (60 DTR GG-1, 3/31/10), is not limited to real estate transactions, the report said. Estates and trusts also may be subject to the tax, the report said, but the application of the tax on these entities differs from how the tax applies to individual taxpayers.

Income restrictions or an exclusion provided for ''primary residence home sales'' may exempt some taxpayers selling primary residences, according to the report. Additionally, some taxpayers may be subject to the tax ''even if they do not dispose of real estate,'' the report said.

Tax Applications. The tax applies to taxpayers with a modified adjusted gross income (MAGI) of more than $200,000 ($250,000 for married taxpayers), the report said. Taxpayers with a MAGI lower than the $200,000 and $250,000 thresholds are not subject to the 3.8 percent tax, according to the report.

Those taxpayers who will be required to pay the tax can figure out the amount owed by multiplying 3.8 percent by the lesser of net investment income or the amount their MAGI exceeds the indicated thresholds, the report said.

According to the report, home sales can trigger the tax by resulting ''in a capital gain that increases net investment income,'' or a home sale that results in a capital gain increasing a taxpayer's MAGI.

The report also provides examples of how the home sales can trigger the Medicare contribution tax.

Text of the CRS report, **The 3.8% Medicare Contribution Tax on Unearned Income, Including Real Estate Transactions**, *is in TaxCore.*

Tax Policy

New CRS Report Addresses Significant Revenue-Specific Rules for Legislation

A Sept. 14 Congressional Research Service report outlined and analyzed the most significant rules to which revenue bills are subject.

The report divided the rules and precedents when developing and considering such measures among four categories:

- rules that apply to the origination and referral of revenue measures,
- rules that require supplemental materials or information to be included with revenue measures,
- rules that apply to the budgetary impact of revenue measures, and
- rules related to the consideration of revenue measures under the budget reconciliation process, which carries with it additional unique procedures.

Federal revenues, the report added, stem from individual and corporate income taxes, excise taxes, estate and gift taxes, and a variety of other sources.

The report, **Rules and Practices Governing Consideration of Revenue Legislation in the House and Senate**, *is in TaxCore.*

Tax Gap

Carper Legislation Cracks Down On Noncompliance to Reduce Tax Gap

Senate tax writer Tom Carper (D-Del.) Sept. 16 introduced legislation (S. 3795) that includes a variety of provisions targeting noncompliance in an effort to reduce the tax gap.

The Taxpayer Advocacy and Government Accountability Promotion (TAX GAP) Act of 2010 includes a dozen such provisions that would tighten information reporting and address tax payments by government contractors through the application of several continuous levies.

''The bill includes provisions that have been proposed both by President Obama as well as former President Bush in their annual budgets, and also incorporates a range of new proposals - all of which will reduce the tax gap while avoiding undue burdens on law-abiding taxpayers,'' a Carper news release said.

The legislation also promotes simplification of tax forms while at the same time increasing information return penalties.

The Internal Revenue Service last estimated the tax gap in 2001 at $345 billion, or $290 billion after taking into account ensuing enforcement efforts and late payments. This figure only could have grown from its 2001 level, the news release said.

''Reducing the tax gap is a common-sense approach to combating our nation's mushrooming deficit,'' Carper said in the release. ''Millions of Americans pay their taxes properly and on-time. However, those who fail to pay their fair share not only create a burden that our economy simply cannot sustain but they force their fellow Americans who play by the rules to pay more in taxes.''

Text of S. 3795 is in TaxCore.

Accounting

SEC Proposes Rule Changes to Require More Disclosures About Short-Term Loans

The Securities and Exchange Commission Sept. 17 unanimously voted to propose rules to require public companies to disclose more information about their short-term borrowings to give investors a clearer picture of the companies' ongoing liquidity and leverage risks.

The SEC also unanimously voted to issue an interpretive release on how existing ''management discussion and analysis'' (MD&A) disclosure requirements apply with respect to liquidity and funding.

Loan Arrangements. Short-term borrowings—loans that mature in a year or less—have become increasingly common, and include financing arrangements such as commercial paper, letters of credit, promissory notes, and repurchase agreements. A report from a court-appointed examiner earlier this year that Lehman Bros. had used so-called Repo 105 transactions to hide its growing insolvency and excessive risk-taking led regulators and members of Congress to take a close look at short-term borrowing arrangements, and companies' on- and off-balance sheet accounting and disclosure practices (47 DTR K-3, 3/12/10).

The SEC subsequently issued ''Dear CFO'' letters to financial institutions seeking detailed information about repo agreements and other financing arrangements. Although the commission did not find material noncompliance with accounting and disclosure rules (178 DTR G-6, 9/16/10), it did find much variation in the manner in which registrants were accounting for repo transactions in their balance sheets.

In her opening remarks at the meeting, SEC Chairman Mary Schapiro said that short-term financing provides important information about a company's overall liquidity and capital resources in both stable and crisis periods. However, because of their short-term nature, the use of such transactions could fluctuate significantly during a reporting period.

''[I]nvestors should have the tools to better understand how companies finance their businesses and how much risk they take on through borrowings that, simply because of timing, do not show up on the balance sheet,'' Schapiro said. ''I believe that investors will benefit from additional transparency in this area, particularly when the difference between short-term borrowing during a reporting period varies significantly from the snapshot that is presented at period-end.''

Proposed Rules. Currently, commission rules require bank-holding companies to disclose their average short-term financing arrangements annually at the end of the reporting period. Although many bank-holding companies do provide quarterly short-term loan disclosures, such intra-period disclosures are not mandated.

The proposed amendments would create a new MD&A section for financial companies to make quarterly and annual disclosures about each type of short-term loan they use. The requested information includes the amount outstanding at the end of the reporting period, and the weighted average interest rate on those borrowings.

To give context to the quantitative disclosures, the companies also would be required to give a short qualitative description, in narrative form, of the loan and its business purposes, and the reasons for any material variations between average short-term borrowings and period-end short-term borrowings. The proposal further would amend the definition of ''financial companies'' to include a new category of firms, including insurance companies and broker-dealers, for whom short-term loans could provide a significant source of liquidity, and for whom liquidity and leverage information are ''especially important.''

The proposed amendments differentiate between financial and nonfinancial companies by requiring financial companies to provide averages for short-term loans calculated on a daily average basis and to disclose the maximum amount outstanding on any day in the period. Nonfinancial companies, on the other hand, would be allowed to calculate averages using an averaging period not to exceed a month, and to disclose the maximum month-end amount during the period.

Balance Sheet. The proposed amendments affect only on-balance sheet transactions. Off-balance sheet loan arrangements would be covered by the SEC's existing disclosure rules. The proposal includes some concessions for smaller issuers, including a longer reporting period of two fiscal years instead of every year, staff said.

On the issue of repo transactions, most of such transactions—which usually are accounted for as financings on the balance sheet—would be covered by the proposed disclosure requirements. As for repos that are accounted for as sales—and therefore not reflected on balance sheets—the SEC's guidance makes clear that the transactions must be evaluated under existing rules for off-balance sheet arrangements.

During the meeting, all the commissioners spoke in support for greater transparency in short-term borrowings. Commissioner Kathleen Casey described the proposal as a ''good starting point'' to improving disclosures about short-term financing. Commissioner Elisse Walter also called for focused attention on ''window dressing'' practices—using accounting ''tricks'' to present a better balance sheet—and asked commentators to voice their views on how to tackle the issue. For his part, Commissioner Troy Paredes said he was interested in comments on what steps firms will take to collect the requested information, and the extent to which nonfinancial firms should be subject to MD&A requirements.

Commissioner Luis Aguilar noted that rules must be accompanied by tough enforcement efforts. Recalcitrants are always looking for new ''Repo 105s,'' he said. ''There should be serious consequences.''

The proposal is open for a 60-day comment period upon publication in the *Federal Register*. The guidance is effective upon publication in the *Federal Register*.

Applause. Meanwhile, finance professionals commended the SEC for tackling disclosures about short-term loan arrangements. Enhanced transparency and disclosures about the nature of repo transactions could have provided a ''red flag'' to regulators and financial statement readers about potential accounting impropri-

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eties such as those involving Lehman's Repo 105 maneuver, said Bruce Zaret, a partner, advisory services, in accounting firm Weaver LLP in Dallas. ''Without transparency of disclosure, it's very difficult for an outside party to assess the true balance sheet risk and exposure resulting from these transactions.''

Chester Spatt, a finance professor at Carnegie Mellon University and a former SEC chief economist, told BNA Sept. 17 that disclosures of short-term borrowings are extremely important because such transactions are crucial components of the capital structure. Disclosures about the loans become even more important in difficult periods because they could provide key indicators about how firms are doing.

''When firms' financial situations deteriorate, their access to long-term loans are limited, so they resort to short-term lending,'' Spatt said. ''Accordingly, the monitoring of short-term borrowings is critical to determining economic health.'' He added that firms heavily dependent on short-term financing are even more exposed to how the market views their financial viability.

BY YIN WILCZEK

A release on the proposed rules is available at the SEC's website, at http://www.sec.gov/news/press/2010/2010-169.htm.

Accounting

FASB Paper Seeks Input on Improving Accounting Issues Unique to Industry

NORWALK, Conn.—The Financial Accounting Standards Board issued a discussion paper Sept. 17 on financial reporting for insurance contracts with an aim to solicit further stakeholder input on how to tackle and improve accounting issues unique to that industry.

FASB is seeking comments by Dec. 15 on the discussion paper titled *Preliminary Views on Insurance Contracts*, the result of joint deliberations with the International Accounting Standards Board to develop converged accounting guidance.

Constituents are asked to provide their views on how insurance entities should recognize, measure, present and disclose insurance contracts, including key areas for which the preliminary views of the FASB differ from the IASB's exposure draft, FASB said.

In addition to developing converged accounting for insurance contracts, the guidance is aimed at simplifying current accounting by eliminating numerous pieces of current accounting literature in the United States that add complexity, and to provide investors with more useful information, FASB member Marc Siegel said Sept. 17 in a podcast.

FASB said it is seeking comments in three key areas:

- whether the IASB's proposal would be a sufficient improvement in U.S. generally accepted accounting principles to justify the cost of change;
- whether the project goals of improvement, convergence and simplification would be more effectively achieved by making targeted improvements to existing U.S. GAAP as opposed to issuing comprehensive new guidance; and
- certain critical accounting issues for which the preliminary view of the FASB differ from the IASB's exposure draft.

Industry practitioners told BNA major threshold issues that are expected to be contentious include the boards' viewpoints on contract fulfillment approach versus exit value as a measurement basis, composite or multiple margins, and discounting issues. All of those areas have either divided the board or been criticized by insurance practitioners as not receiving sufficient attention.

FASB said it therefore is also seeking, by Nov. 15, participants for a series of public roundtable meetings in December on the discussion paper and the IASB's exposure draft, ''Insurance Contracts,'' issued July 30.

Boards Had Different Starting Points. The boards completed deliberations in June, but were unable to converge on some of the issues including further due process. The IASB's exposure draft of its proposed views—expected to replace international accounting standard 4, Insurance Contracts—has a four-month comment period and is expected to have a global impact on how insurance companies measure, report, and evaluate performance of their insurance contracts.

The FASB, however, felt there were too many loopholes within its own proposal to justify that step since constituents are being asked to weigh in on, in some cases, two alternative accounting steps. In addition, that board is still weighing whether employer-provided health insurance should be included in the scope of the project.

Added to that the starting point for international financial reporting standards (IFRS) and GAAP are totally different. ''U.S. GAAP today already comprehensively addresses accounting for insurance contracts,'' Siegel said.

''IFRS has IFRS 4, but it doesn't really have any comprehensive guidance as IFRS carries forward local GAAP for international companies. Whether the proposed changes improve current GAAP in the U.S. is relative to significantly different starting points,'' Siegel said.

Insurance experts lobbied for the boards to err on the side of caution as opposed to producing guidance that could have significant trickle down repercussions. Some groups have said the IASB's proposal could mean a significant amount of change in the financial statements of insurance companies since it would require them to modify their information systems, risk management programs and, in some cases, product design.

Industry Weighs in. Responding swiftly, Group of North American Insurance Enterprises (GNAIE) Executive Chairman Jerry de St. Paer told BNA Sept. 17 the FASB's discussion paper approach is the best way to resolve the issues that divide accounting standard setters around the world on insurance contracts accounting.

''The IASB exposure draft should have also been a discussion paper since most of the major threshold issues, like contract fulfillment approach versus exist value as a measurement basis, composite or multiple margins, discounting issues, were all subjects that either divided the board or had not received sufficient discussion,'' de St. Paer said.

He stated that the two boards have been working on these and other insurance related issues, such as revenue recognition, financial instruments, and financial

statement presentation for many years, but it would be a mistake for them to rush the deliberative process to a hasty conclusion.

"We support the plan of the joint boards to begin redeliberations in January and we would expect the project to be completed expeditiously when the issues have been resolved, not according to any artificial timetable," said de St. Paer.

BY DENISE LUGO

Text of the discussion paper is available at http://www.fasb.org/cs/BlobServer?blobcol=urldata&blobtable=MungoBlobs&blobkey=id&blobwhere=1175821287280&blobheader=application%2Fpdf.

Retirement Plans

Attorneys Encourage Sponsors to Be Ready For DOL's New Standards for Fee Disclosure

Plan sponsors need to "get their ducks in a row" and be ready to comply with the Labor Department's interim final rules on plan service provider compensation arrangements, according to attorneys who spoke Sept. 16 at a BNA-sponsored webinar.

The Labor Department pursued these initiatives in response to changes in service delivery business models, class actions and other litigation targeting revenue sharing, political pressure from Congress, and market forces, attorney Andrew L. Oringer said. Oringer is a partner in the tax and benefits department of Ropes & Gray, New York.

"These are basically tighter controls on corporations," he said. "Congress applied pressure largely because it has a high level of distrust for financial institutions and professionals. The current environment is one of basic distrust."

The Department of Labor initiatives include efforts to increase reporting and disclosure of direct and indirect compensation from plan administrators to the Labor Department, from service providers to plan administrators, and from plan administrators to participants, Oringer said.

"The stakes are high," he said. "Adverse consequences may include excise taxes under IRC [Internal Revenue Code] Section 4975, fee disgorgement, potential liability for breach of fiduciary duty by the responsible plan fiduciary, and reputational risk."

Interim Final Rules. On July 15, the Labor Department issued an interim final regulation (135 DTR G-8, 7/16/10). "The final interim regulation combines the original regulatory requirements with new disclosure obligations that covered service providers must provide to responsible plan fiduciaries of covered plans in order to rely on the Section 408(b)(2) exemption," attorney Linda K. Shore of Mayer Brown, Washington, D.C., said. "The original nondisclosure provisions of the regulation will continue to apply to all plan service arrangements."

The interim final rule imposes disclosure requirements on four types of service providers that reasonably expect to receive $1,000 or more for providing certain services, Shore said. These include ERISA fiduciaries and registered investment advisers providing services directly to plans, fiduciaries of plan asset funds in which plans hold direct equity interests, recordkeepers and brokers who provide services to participant-directed plans where one or more plan investment options is made available through the recordkeeper or broker, and providers of certain other key services, such as accounting, consulting, and insurance, she added.

Covered service providers will be required to provide certain enumerated disclosures to the responsible plan fiduciaries before providing services, including the nature of the services to be provided, whether the covered service provider reasonably expects to provide services as an ERISA fiduciary or as a registered investment adviser, and the service provider's direct and indirect compensation arrangements, Oringer said.

There are additional disclosure requirements for plan recordkeepers, Shore said. "A plan recordkeeper that is a covered service provider must disclose any direct or indirect compensation that it expects to receive in connection with recordkeeping services. If the recordkeeper expects to provide services for free, or if its fees are offset by fees it receives, it must provide a reasonable good faith estimate of the cost of those services," she added.

Investment Disclosures for Fiduciaries. There are investment disclosure requirements for fiduciaries of plan asset entities, too, Oringer said. "A fiduciary of a plan asset entity where a plan holds a direct equity interest must disclose a description of any compensation that will be charged directly against the amount invested in connection with the acquisition, sale, transfer of, or withdrawal from the investment," he said.

Other disclosure requirements include a description of annual operating expenses, a description of any ongoing expenses in addition to annual operating expenses, but separate disclosures are not required with respect to nonfiduciary service providers to plan asset entities. Disclosure requirements also generally do not apply to underlying funds, such as in a fund-of-funds structure, he said.

"You really have to have your ducks in a row. You have to be ready, be prepared," he added.

Liability Concerns. "A covered service provider who fails to provide the required disclosures will not be permitted to rely on the statutory exemption provided by Section 408(b)(2)," Shore said. "The DOL takes the position that the service provider will also be subject to excise taxes under the parallel prohibited transaction provisions of IRC Section 4975," she added.

"In addition, the interim final rule includes a class exemption for responsible plan fiduciaries, providing relief from fiduciary liability for causing a plan to enter into a nonexempt prohibited transaction where the fiduciary reasonably believed the covered service provider had complied with the disclosure rules, the fiduciary requests the required information in writing after discovering the error, and the fiduciary notifies the DOL if the service provider fails to provide required disclosures within 90 days," she said.

The interim final regulation will be effective July 16, 2011, Shore said, and the regulations will apply to new and existing service arrangements.

BY CHUCK JONES

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Passthrough Entities

S Corp Allies Cheer Removal of Payroll Tax Change in Extenders but Expect It to Return

Small business supporters praised Senate Democrats' decision to shelve a $9 billion provision that would toughen payroll tax rules affecting S corporations on Sept. 17, though no one seems to doubt that the provision will return in the future.

The provision, included as a key source of new revenue to pay for part of the tax extenders legislation before the Senate, would have clarified that service professionals at S corporations and certain partnerships cannot avoid paying Medicare and Social Security taxes by routing large portions of their income through payroll tax-exempt forms of compensation.

While Senate Finance Committee Chairman Max Baucus (D-Mont.) initially said the provision would close a tax loophole that is abused by many professionals at services firms, business groups said it would have a significant and harmful impact on small businesses.

On Sept. 16, Baucus struck the provision from the previous version of the extenders bill and reintroduced the legislation as the Job Creation and Tax Cuts Act (S. 3793). Because the Constitution requires all revenue bills to originate in the House, aides said it is likely that the extenders bill will be brought back to the Senate floor as a substitute to the only House tax bill currently on the Senate calendar, the Small Business and Infrastructure Jobs Tax Act of 2010 (H.R. 4849) (179 DTR G-7, 9/17/10).

But even though Baucus removed the provision from the extenders bill, allies of S corporations remain prepared for tougher payroll tax rules to be proposed again.

''I don't see it coming back this year, but I don't think the John Edwards issue is going to go away,'' said S Corporation Association of America Executive Director Brian Reardon. He was referring to news reports that the former Democratic presidential candidate had been paying himself a small salary at his law firm and collecting the majority of his pay in the form of dividends as a way to avoid hundreds of thousands of dollars in self-employment taxes.

A key problem in the way the provision was drafted was that it would do nothing to make it easier for the Internal Revenue Service or businesses to determine whether the payroll taxes being paid were appropriate, and could, in fact, make it even harder to administer federal rules.

''The rules made it harder to understand what a reasonable salary would be and the IRS would still have to go out and audit people, so this is a case where the new law would be worse than the old,'' Reardon said.

Early 2011 Return Expected. With the limited amount of time that Congress has, Reardon said he expects that the issue will die down for the remainder of 2010, but will be revisited by the next Congress early in 2011 as lawmakers return. ''We'll talk to them then and see where we are,'' Reardon said.

Baucus's proposed changes to clarify how S corporations and partnerships should determine a ''reasonable'' basis for calculating payroll taxes would have ended up forcing passive investors in small family-held partnerships to pay self-employment taxes on their income, even if they never have a hand in any of the firms day-to-day operations, said Diane Kennedy, a certified public accountant and founder of U.S.TaxAid Services.

''Maybe some firmer guidelines are needed on what salary is reasonable for taxpayers and the IRS, but this was a knee-jerk reaction to say, 'Fine, everything is subject to self-employment tax,' '' Kennedy said, calling the idea ''the ultimate S Corp killer.''

But, like Reardon, Kennedy said she expects to see the proposal return in the future and is advising her clients to be as flexible as possible in how they structure their businesses.

''I'm telling them, most importantly, make sure you're paying yourself a reasonable salary. Paying little or nothing is going to raise red flags,'' Kennedy said.

By Brett Ferguson

In Brief

Organizations' Eligibility for Deductible Gifts Revoked

The Internal Revenue Service in Announcement 2010-57, scheduled for publication Sept. 20 in Internal Revenue Bulletin 2010-38, listed organizations that no longer qualify as eligible to receive tax-deductible contributions under Internal Revenue Code Section 170(c)(2).

IRS said it had deleted the organizations from the cumulative list of organizations eligible to receive such contributions.

IRS noted that, under tax code Section 7428(c), if an organization whose eligibility to receive tax-deductible contributions has been revoked timely files a suit for declaratory judgment, contributions to such organization that are otherwise allowable will continue to be deductible until the date a court first determines the organization is not qualified.

Text of Announcement 2010-57 is in TaxCore.

IRS Corrects Date Referenced in Prior Announcement

The Internal Revenue Service in Announcement 2010-58, scheduled for publication Sept. 20 in Internal Revenue Bulletin 2010-38, corrected a date published in Announcement 2010-55 regarding organizations no longer eligible to receive tax-deductible contributions.

IRS said it should have specified Sept. 13—the date Announcement 2010-55 appeared in the IRB (175 DTR G-5, 9/13/10)—as the date when protection under Section 7428(c) would begin if an organization timely files suit for declaratory judgment.

Text of Announcement 2010-58 is in TaxCore.

FASB Technical Chief Golden Named to Board

NORWALK, Conn.—Russell Golden, currently technical director at the Financial Accounting Standards Board, will join the five-member board Oct. 1, replacing retiring Chairman Robert Herz, a spokesman for the Financial Accounting Foundation said Sept. 17.

On the same date that Golden, a former partner at Deloitte & Touche LLP for 12 years, takes one of FASB's five seats, Leslie Seidman, a current board

member, will begin serving as acting chairman of the panel.

The trustees of the FAF, FASB's parent group, are conducting an internal and external search for a new chairman and also seek another board member. Both are to be named by early next year, the foundation has said. Those appointments would expand the five-member FASB to seven, which was the panel's previous number until 2008.

A profile of Golden is posted at http://www.fasb.org/facts/factsrgg.shtml. A brief Q&A with the FAF chairman, focusing on the FASB member selection process, is available at http://www.fasb.org, under ''News Center.''

Delegation Orders Issued on Employee Benefit Plans

The Internal Revenue Service Sept. 17 posted to its website four delegation order providing authorities for IRS officials to make determinations related to retirement and employee benefit plans.

Delegation Orders 7-5 and 7-8, both effective July 30, delegate authorities to approve requests for variances from minimum funding standards or waiver of accumulated funding deficiency, and retroactive plan amendments, respectively.

Delegation Order 7-9, effective Aug. 10, provides authority to determine that a plan amendment is reasonable and has de minimis effect on the plan's liability, and Delegation Order 7-10, effective Aug. 1, authorizes extension of the amortization period of plans.

Texts of Delegation Order 7-5, Delegation Order 7-8, Delegation Order 7-9, and Delegation Order 7-10are in TaxCore.

Rules on Acceleration of COD Income Corrected

The Internal Revenue Service corrected temporary regulations (T.D. 9497) on acceleration of cancellation of debt income in tax code Section 108(i) structures in a document made available Sept. 20 on the Federal Register's public inspection website.

The corrections included minor punctuation changes as well as a change of effective date—from Aug. 13, 2010, to Aug. 11, 2010—in the description of prospective application of accelerated income deferral.

T.D. 9497 and its companion proposed rules (REG-142800-09) were unveiled Aug. 11 as part of a comprehensive guidance package that included a second pair of proposed and temporary regulations (REG-144762-09, T.D. 9498). The guidance package was designed to allow financially troubled companies to defer their taxable cancellation of indebtedness income in certain circumstances (154 DTR GG-1, 8/12/10).

Text of the corrections will be published in the Sept. 20 **Federal Register** *at http://www.ofr.gov/.*

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State TAX & ACCOUNTING

Ohio

Ohio Specifies Updates Release Regarding Look-Back Period for CAT Agreements

The Ohio Department of Taxation updated its information release (CAT 2008-1) regarding CAT voluntary disclosure agreements to reflect the addition of a look-back period.

Beginning Jan. 1, 2011, the look-back period for a CAT voluntary disclosure agreement will be the current calendar year and/or current calendar quarter plus the three years prior to requesting the agreement.

Previously, the information release, now dated September 2010, provided that the look-back period applicable to CAT voluntary disclosure agreements was a negotiated provision within the voluntary disclosure agreement.

Text of the release is available at http://tax.ohio.gov/divisions/communications/information_releases/CAT/cat200801.stm.

New York

New York Issues Ruling Explaining When QEZE Tax Exemptions Apply

A taxpayer certified as an Empire Zone business is not entitled to exemptions from the sales and use tax until it has applied for and received a Qualified Empire Zone Enterprise (QEZE) sales tax certification from the state, the New York Department of Taxation and Finance ruled in an advisory letter (TSB-A-10(33)S).

The sales tax QEZE benefit is not retroactive, and the tax benefit period for which it may be applicable begins with the period in which the certification by the department is granted, the department stated.

Filing for the sales tax certification ''is not a mere ministerial act,'' the department said, but rather ''was a condition precedent to Petitioner's entitlement to the exemptions from sales tax.''

Text of the July 29 advisory opinion is available at http://www.tax.state.ny.us/pdf/advisory_opinions/sales/a10_33s.pdf.

Illinois

Illinois Issues Ruling on Collection Of Telecommunications Excise Taxes

A company that provides wireless voice over internet protocol (VoIP) air-to-ground telephone service to airlines using a Wi-Fi signal must collect telecommunications excise taxes if the airline originates or terminates calls on the equipment in Illinois and the bill for the service is sent to an Illinois address, the state Department of Revenue said in a private letter ruling (ST 10–0005–PLR).

Failure to register and collect telecommunications excise taxes will result in the company itself being responsible for paying the taxes on the telecommunications services it purchases to provide the service, the department said in the Aug. 8 ruling.

The company cannot give resale certificates to telecommunications companies that it purchases telecommunications services from to provide the service, the department said.

However, when the company collects the telecommunications excise taxes on calls made by customers originating or terminating in Illinois and billed to an Illinois address, it may provide resale certificates to its suppliers if it registers with the department as a reseller.

Text of the ruling is at http://www.revenue.state.il.us/LegalInformation/Letter/rulings/st/2010/ST-10-0005-P.pdf

In Brief

Florida Rules on Taxation of Computer Service Plans

Service plans purchased with computer equipment and related warranties are subject to sales tax because the plans are part of the sale of taxable tangible personal property, not exempt professional services, the Florida Department of Revenue said recently in Technical Assistance Advisement 10A-035.

The Aug. 23 advisement is available on the internet at https://taxlaw.state.fl.us/wordfiles/SUT%20TAA3%2010A-035.pdf.

International TAX & ACCOUNTING

Transfer Pricing

WCO Is Investigating Utility of OECD Transfer Pricing Methods, Official Says

AMSTERDAM—A World Customs Organization official said Sept. 16 that the organization is evaluating which methods under the Organization for Economic Cooperation and Development's transfer pricing guidelines could be utilized for customs valuation purposes.

Ian Cremer, head of the Tariff and Trade Affairs Directorate, said the WCO is looking into whether the application of the ''circumstances of sale'' test under Article 1.2(a) of the World Trade Organization Customs Valuation Agreement is similar to Organization for Economic Cooperation and Development transfer pricing methods.

Cremer told a conference by *International Tax Review* and Baker & McKenzie that the WCO's Technical Committee on Customs Valuation is currently analyzing government initiatives from around the world and is considering developing a set of high-level guidelines supported by case studies.

A natural tension exists between tax administrations, which generally seek to minimize cost of goods sold, and customs administrations, which seek to maximize COGS and thus import prices, creating higher dutiable values and processing fees. Multinational enterprises and governments are challenged by how to reconcile these differences and achieve an arm's-length result that can be documented and supported in such a way as to satisfy the needs and general principles of both sets of rules.

Interesting Model. Cremer said an interesting model is presented by a case in which U.S. Customs and Border Protection used a transfer pricing study as a major component in accepting a related-party customs transaction. He noted that other countries, including Australia, also have issued statements on how customs and tax rules could converge.

However, Cremer said, ''it is clear that there is never going to be complete alignment of customs and transfer pricing provisions,'' and ''so it's a case of to what degree is there an overlap.''

The question, he added, is ''to what degree can we interpret, particularly on the customs side, our provisions . . . to make use of transfer pricing information?''

Tough Questions. Cremer pointed out that the WCO and OECD held two joint conferences in 2006 and 2007, and that the WCO continues to work closely with the OECD on transfer pricing issues.

However, Cremer said, in seeking to bridge the gap between transfer pricing and customs valuation, two key questions arise:

- To what extent, if at all, can a transfer pricing study be accepted as the basis for a customs value?
- How should post-importation price adjustments be dealt with?

Cremer said there is not a simple answer to the first question because ''we have our own rules and provisions. It is not a simple matter of accepting a transfer pricing study.''

Post-importation adjustments, he said, are a sensitive issue, with some countries not entertaining adjustments, one country entertaining only upward adjustments, and other countries, including the United Kingdom, looking at both downward and upward adjustments.

He said there are mechanical issues with the customs process, including provisional customs declarations, that make adjustments difficult.

Similarities and Differences. Cremer said the transfer pricing arm's-length concept is similar to the customs price influenced concepts, and both customs and transfer pricing methods are transaction-based.

The customs deductive method, which starts with the resale price in the domestic market and strips away post-import costs, is similar to the transfer pricing resale minus method, Cremer said, and the computed value method is similar to the cost plus method.

However, Cremer said, these two methods are used only in the small minority of cases.

Moreover, Cremer said, customs valuation is governed by a 30-year-old multinational agreement that contains no mention of transfer pricing, applies only to the value of imported goods at the time they are imported, and is 100 percent transaction-based, though he did say that ''maybe in future we will look at aggregate value.''

Transaction Value Method. Cremer said under the transaction value method used in 95 percent of customs valuations, the price of the imported goods is the price actually paid or payable—the invoice price—plus adjustments for royalties, selling commissions, the value of free parts supplied by the buyer, and transportation costs.

When the parties are related, Cremer said, the issue is whether the price has been influenced, which is similar to the arm's-length question of whether the parties' relationship has influenced the price.

Cremer pointed out that the fundamental customs principle of arriving at the actual value of the imported goods, wherever possible, was established by Article VII of the 1947 General Agreement on Tariffs and Trade, which prohibits arbitrary or fictitious values.

There are many interesting studies on the interface between customs duties and transfer pricing regimes, Cremer said.

He encouraged traders to provide their views on how the two regimes should interface with the International Chamber of Commerce, which would then be able to provide the WCO with a composite trade position.

By Kevin A. Bell

Accounting

IASB Stymied by Rate-Regulated International Industry Accounting Puzzle

LONDON—The International Accounting Standards Board reached an impasse Sept. 16 in its bid to find a way for rate-regulated entities to recognize the assets and liabilities arising out of rate regulation in their financial statements.

The issue is a hot button topic for rate-regulated businesses in North America with an impending move by Canada to international financial reporting standards in 2011 and the U.S. Securities & Exchange Commission eyeing the prospect of a move in the future.

IASB will now put together what Chairman David Tweedie described as ''three different agenda proposals'' for a public consultation later this year on the board's post-2011 work program.

''The agenda proposals would have to come in categories,'' Tweedie said. ''You've got post-implementation reviews, full-blown projects, the medium-term projects which this could fall in if you just deal with and did nothing else, forget the intangibles.''

He described staff's work on the project to date as both a ''useful analysis'' and a ''basis to move forward.''

Differences Between U.S., European Board Members. Among board members, those from a U.S. background tended to support the recognition of the effects of rate regulation, and those from Europe tended to take a more skeptical approach.

Patricia McConnell, a former equity analyst with investment bank Bear Stearns, said, ''In my view we should move on with this project, it is an asset and assets and liabilities should be reported.

''I think the decision starts with, 'Is there an asset?' And then, 'How do we measure that asset, does it meet the recognition criteria?' And then we can talk about whether it is tangible, intangible, or a financial asset,'' she said.

McConnell went on to note that on the leasing project in relation to the lease asset for a lessee, the board has ''made a decision to adjust that value, and so there is no reason why we couldn't move forward with this project and make similar decisions in my view.''

On the other side of the divide, Elke Koenig argued she would be rather ''reluctant to just keep on going. I would probably [think] that we should put it back in the agenda at a later date [as part of] a broader project on intangibles.''

At issue is whether rate regulation needs to form part of a wholesale review of the board's intangible assets literature.

IASB member Stephen Cooper said, ''I think we need to do more work . . . it is an important economic activity that we have to consider [and] I think it is related to intangibles.

''It may not require all intangibles to be reconsidered, maybe there are ways . . . of looking at it in isolation.''

Also to emerge during the meeting was the admission from staff that whether or not it is possible to recognize rate-regulatory asset or liability under IFRS is far from clear cut.

Project manager Michael Kraehnke told the meeting, ''The addendum paper . . . was created as result of discussions with a representative from the U.S. member firm of PwC. They are holding the view that the information in Appendix A to Agenda Paper 12A is not definitive and it is somehow subjective.'' Kraehnke was referring to PricewaterhouseCoopers.

By way of contrast, *Ernst & Young's International GAAP 2010* states, ''The current consensus among existing IFRS reporters was that no regulatory assets or liabilities are recognized, unless they meet the definition of a financial asset or a financial liability (these arise in few regulatory regimes).''

Staff confirmed that currently no entities have recognized regulatory assets or liabilities under international standards.

Knotty Problem for IASB. The effect of rate regulation, as well as how to account for it, has proved to be a knotty problem for the international board.

Most recently, it received a lukewarm response from constituents to its proposals to accommodate the notion of rate regulation within IFRS literature.

The IFRS Interpretations Committee considered the issue during 2008 but decided not to add the issue to its agenda. Following this development, IASB published an exposure draft in July 2009 (140 DTR I-3, 7/24/09) that proposed permitting the recognition of rate-regulatory assets and liabilities in certain circumstances.

U.S. generally accepted accounting principles have permitted entities to recognize regulatory assets and liabilities since at least 1962. Those principles were subsequently codified in 1982 into SFAS 71.

Staff noted during a Feb. 17 board discussion that any incorporation of the requirements of SFAS 71 into IFRS would result in wider recognition of regulatory assets and liabilities in jurisdictions currently using IFRS (31 DTR I-3, 2/18/10).

At its July meeting, IASB members were unable to agree on how to progress the project (138 DTR I-2, 7/21/10).

The fallout from that development saw Canada's national standard setter mull the prospect of a temporary carve-out from IFRS for its rate-regulated industries.

Under that approach, set out in a July 29 exposure draft, Canadian rate-regulated entities would have a two-year grace period from the requirement to begin applying IFRS Jan. 1, 2011, when that country starts to apply international standards.

Comment letters received on the Canadian proposal to delay adoption of IFRSs by rate-regulated entities indicate strong support for that move.

By Stephen Bouvier

Text of observer notes for the board's discussions is available at http://www.ifrs.org/Meetings/IASB+Board+Meeting+16+September+2010.htm. More information about Canada's work on rate-regulated activities can be found at http://www.acsbcanada.org/projects/current-projects/item31116.aspx.

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Tax Treaties

Stakeholders Favor OECD Draft Procedures For Claiming Withholding, With Few Tweaks

The European Banking Federation favors an Organization for Economic Cooperation and Development implementation package on streamlined procedures for portfolio investors to claim reductions in withholding rates under tax treaties or domestic law in the source country, comment letters released Sept. 16 indicated.

One of the major benefits of the proposed streamlined procedure is that information regarding the beneficial owner of the income would be maintained by the authorized intermediary that is nearest to the investor, rather than being passed up the chain of intermediaries, the group said in its Aug. 30 letter to OECD.

The OECD's implementation package is unprecedented in terms of attempting to deal with the lack of standardization and complexities in current tax relief arrangements, officials from many countries said in responding to the draft procedures. The arrangements keep collective investment vehicles (CIVs) and other portfolio investors from effectively claiming treaty benefits, they said. The letters were released Feb. 8 (26 DTR I-1, 2/10/10).

The EBF represents 5,000 European banks, institutions that are connected all along the chain of cross-border transactions, including trading, brokerage, custodianship, and asset servicing.

EBF said it is crucial that competent authorities issue detailed guidance on the treatment of certain entities and the tax benefits available to them, cautioning that source countries should not implement only selected elements of the package. ''Customization and fragmentation should be avoided at all costs,'' it said.

Upstream Pooled Information. The Investment Management Association said it fully supports the overall approach outlined in the draft procedures, and said more specifically that authorized intermediaries should also be allowed to rely on ''upstream'' pooled information provided by the intermediary closest to the beneficial owner, if there are appropriate safeguards.

For instance, when a CIV has to determine the resident status of its investors in order to establish its own rights under a relevant double taxation agreement, it said upstream pooling of information should be permitted.

''As you are no doubt aware, the distribution of CIV's established in the U.K. is heavily intermediated, and the fund manager's records will have a nominee as the legal owner, with the result that the manager of the CIV will usually have little or no idea of the identity of the beneficial owners,'' IMA said.

Independent Reviewer. Ernst & Young, in its comments, asked for clarification of the term ''independent'' as it applies to the designation of the independent reviewer.

The draft procedures would allow the authorized intermediary to propose to the competent authority an initial independent reviewer that is subject to the laws, regulations, or rules that impose sanctions for failure to exercise its independence and to perform the review competently.

The competent authority could revoke its acceptance of the independent reviewer if it reasonably believes the reviewer designated is not independent or cannot perform an effective review under the procedures.

Ernst & Young said if ''independent'' is not defined, any ambiguity is likely to create issues within professional advisory services firms and could lead to firms defaulting to International Federation of Accountants standards. Those standards would be inappropriate for a review performed under ''agreed upon procedures,'' E&Y said. This may lead to firms being unable to perform additional services alongside the Independent Review, including related advisory services and in some cases unrelated non-audit services, it said.

The Association for Financial Markets in Europe said it agreed with some of the concerns expressed in the British Bankers Association letter, including those related to liability, determination of investor eligibility, and integration of domestic tax relief. On the latter point, it said tax relief should be extended under the source country's domestic law. Without combining such domestic law claims with treaty claims, financial intermediaries would need to operate two systems—one for treaty claims and one for domestic law claims, AFA said.

The comment letters can be found on the OECD's website under Tax Treaties/Public Comments on Draft Implementation Package at http://www.oecd.org/document/12/0,3343,en_2649_33747_46016652_1_1_1_1,00.html.

In Brief

Italy Adds Bread, Pasta, Fish to Preferred Tax List

ROME—Italian tax authorities announced Sept. 17 that the list of approved agricultural products eligible for preferred tax rates would be expanded to include fresh bread and pasta along with small fish and shellfish.

The changes, part of a larger government package aimed at sparking economic growth, are also a subset of a larger set of changes lobbied for since earlier in the year by industrial association Confindustria. The changes mean that those products will be considered pure agricultural products and they will not be taxed at the higher rate used for manufactured or processed products.

In general, the difference means those products will cost 2 percent to 4 percent less than otherwise. The change will go into effect Jan. 1, 2011.

BNA Insights

IRS Issues FBAR Relief but Certain Plan Filing Obligations Remain

BY KAREN A. SIMONSEN, TODD A. SOLOMON, AND JAMES G. ISAAC

The Internal Revenue Service recently issued several pieces of guidance related to the filing of the Report of Foreign Bank and Financial Accounts, IRS Form TD F 90-22.1 (FBAR), by pension plan sponsors.

This guidance relieves certain filing obligations, such as the requirement for plans to file an FBAR for foreign hedge fund investments for 2009 and prior years. However, other filing obligations remain. Plan sponsors with foreign financial accounts should consider their FBAR filing obligations and determine whether the upcoming June 30, 2011, filing deadline applies to them.

Background on FBAR Filing Obligations

Under IRS rules, U.S. persons with a financial interest in, or signature or other authority over, financial accounts in a foreign country with an aggregate value exceeding $10,000 at any time during the calendar year must file an FBAR by June 30 of the following year (subject to limited exceptions).

Karen A. Simonsen is a partner in the law firm of McDermott Will & Emery LLP and is based in the firm's Chicago office. She focuses her practice primarily on design and compliance issues related to qualified retirement plans, nonqualified deferred and equity compensation programs, and fiduciary issues. Simonsen can be reached at (312) 984-6960 or ksimonsen@mwe.com.

Todd A. Solomon is a partner in the law firm of McDermott Will & Emery LLP and is based in the firm's Chicago office. Solomon focuses his practice primarily on designing, amending, and administering pension plans, profit sharing plans, 401(k) plans, employee stock ownership plans, 403(b) plans, and nonqualified deferred compensation arrangements. Solomon can be reached at (312) 984-7513 or tsolomon@mwe.com.

James G. Isaac is an associate in the law firm of McDermott Will & Emery LLP and is based in the firm's Chicago office. He focuses his practice on a variety of employee benefits tax and Employee Retirement Income Security Act matters related to 401(k) plans, pension plans, health and welfare plans, and executive compensation. Isaac can be reached at (312) 984 7738 or jgisaac@mwe.com.

This is not a new requirement. However, recent statements and guidance from IRS have made clear that the requirement's scope is much more broad than previously understood.

First, through informal statements and then through official guidance, IRS has indicated that the FBAR filing requirements may extend to employee benefit pension plans and trusts, plan sponsors, plan trustees, investment managers, and plan service providers (collectively, ''plan filers'').

IRS has indicated that the FBAR filing requirements may extend to employee benefit pension plans and trusts, plan sponsors, plan trustees, investment managers, and plan service providers.

This is because a pension plan, for example, will often invest in offshore investment vehicles in an effort to diversify plan assets. Such foreign investments may fall within FBAR's use of the term ''foreign financial accounts.'' This is especially true for defined benefit plans, many of which hold foreign mutual funds or offshore hedge funds and private equity funds, which would qualify as a foreign financial account.

In addition, every Employee Retirement Income Security Act-covered plan has a ''named fiduciary'' responsible for the management and administration of the plan. Named fiduciaries are authorized to dispose of a plan's assets. Under FBAR's instructions, named fiduciaries will generally have ''signature or other authority'' over the assets invested in offshore vehicles and would need to file an FBAR.

Depending on the definition of a plan's named fiduciary, the plan sponsor's directors, officers, investment committee members, and a number of other employees may have the authority to engage in transactions on behalf of the employer. Arguably, this authority could fall within the definition of ''signature or other authority'' over the plan's foreign accounts. This would mean that each of these individuals—whose normal job duties may be only tenuously related to a plan—would be required to file an FBAR as well.

This application of FBAR filing requirements to plan filers appears at odds with FBAR's stated purpose, which is to collect and maintain reports and records ''where such reports or records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.'' Nonetheless, plan filers disregard fil-

ing obligations at a considerable risk: Criminal penalties for the willful violation of FBAR requirements can, when connected with a violation of another law or if part of a pattern of illegal activity, reach $500,000 and imprisonment for several years.

In an effort to clarify the FBAR landscape for potential filers, IRS has recently issued guidance in the form of notices, proposed regulations, and an announcement. This guidance offers important clarification but also leaves several issues unresolved.

Recent Guidance

In response to calls for filing relief from plan sponsors and others, IRS published Notice 2009-62 Aug. 31, 2009. Because the Treasury Department needed additional time to develop comprehensive FBAR guidance, this notice allowed the following two types of filers to postpone filing an FBAR for 2008 and earlier calendar years until June 30, 2010:

- those persons with no financial interest in a foreign financial account but with signature authority over that account; and
- persons with a financial interest in, or signature authority over, a foreign commingled fund, such as an offshore hedge fund.

Although Notice 2009-62 granted this temporary relief, it importantly did not eliminate the filing requirement for the affected types of filers and, by referring to ''2008 and earlier calendar years,'' also indicated that IRS expected these filers to file an FBAR for not just present and future years but also past years.

IRS followed Notice 2009-62 with Notice 2010-23, published Feb. 26. For filers who have signature authority over, but no financial interest in, a foreign financial account, IRS extended until June 30, 2011, the FBAR filing deadline for the 2009 calendar year. Those who qualify for this extension are also not required to report such foreign financial accounts on their individual Forms 1040 for 2009. This type of filer might include investment committee members and in-house investment officers who are authorized to move money for the plan's trust.

In addition, IRS made clear that filers with either a financial interest in, or signature or other authority over, a foreign commingled account other than a foreign mutual fund are not required to file FBAR for 2009 and prior years. Notice 2010-23 explicitly states that this relief applies to foreign hedge funds and foreign private equity funds, but that it does not apply to investments in foreign mutual funds.

On the same day Notice 2010-23 was published, the Financial Crimes Enforcement Network (a unit within the Treasury Department) issued proposed FBAR regulations. Notably, the proposed regulations do not resolve the important issue of whether foreign hedge fund and private equity investments need to be reported, instead reserving the treatment of that issue for a later date.

IRS also issued one final piece of related guidance and relief in Announcement 2010-16. For non-U.S. persons (i.e., those who are not U.S. citizens, U.S. residents, or domestic corporations, partnerships, trusts, or estates), such as offshore hedge funds, the requirement to file FBAR for the 2009 and earlier calendar years is suspended.

Impact on Plan Filers

The recent FBAR guidance has provided some important relief for plan filers but certain filing obligations still exist. In particular:

- Plan filers with signature authority over, but no financial interest in, a foreign financial account have received a one-year filing extension until June 30, 2011.
- Plan filers with either a financial interest in, or signature or other authority over, a foreign commingled account other than a foreign mutual fund are not required to file FBAR for 2009 and prior years.

Significantly, however, many issues remain unresolved, such as whether plan filers with signature authority over, but no financial interest in, a foreign hedge fund or foreign private equity fund (such as pension plan investment committee members and plan sponsor employees) will be exempted from FBAR filing requirements in the future.

As of now, such parties have a filing obligation beginning June 30, 2011. However, it is possible that additional relief will be provided before then.

Moreover, the recent FBAR guidance specifically does not exempt pension plans from filing requirements, which means the FBAR filing requirements for foreign accounts, including commingled accounts such as foreign hedge funds, are likely here to stay.

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Tax DECISIONS & RULINGS

Withholding

IRS May Assert Backup Withholding Despite Expiration of W-9 Retention Period, CCA Says

The Internal Revenue Service Office of Chief Counsel, in a chief counsel advice memorandum released Sept. 17, said IRS may assert backup withholding liabilities based on failure to obtain certification on Forms W-9 even where the three-year period for retaining the forms has passed.

The office said in CCA 201037027 that the three-year retention rule was apparently created to lessen the burden on payors with respect to record retention and has no impact on a payor's backup withholding obligation.

Under the facts considered in the CCA, a taxpayer business discovered it did not have Forms W-9 for some account holders to which it had made reportable payments as defined in Section 3406. The taxpayer stated it believed some of the forms had been obtained but not retained and others had never been obtained.

The taxpayer did not backup withhold on the reportable payments made to account holders for which there are no Forms W-9 on file, the CCA said, and further failed to issue Forms 1099 to many of those account holders. The taxpayer voluntarily disclosed the failures to IRS and began remediation efforts, but requested that IRS not assert backup withholding liabilities.

The Office of Chief Counsel noted that the taxpayer's submission did not contain any specifics such as the number of accounts involved, the percentage of its total accounts at issue, the years in which those accounts were opened, or information about the types of payees involved. ''The representations made in the submission are general statements and arguments not supported by specific facts, such as specific evidence that the accountholders in issue paid their full tax due,'' the office said.

Requirements for Backup Withholding. The CCA said that under Section 3406(a)(1), a payor must backup withhold on certain reportable payments if, among other circumstances, the payee fails to furnish a taxpayer identification number to the payor. The payee must certify that the TIN furnished is correct using Form W-9 or an acceptable substitute.

For accounts opened after 1983, the CCA said, the taxpayer's failure to obtain Forms W-9 means that reportable interest, dividend, or broker payments to those accounts are subject to backup withholding, regardless of whether the payees' TINs were in fact received or whether those TINs are correct, the CCA said. The obligation continues until the taxpayer receives the payee's TIN in the manner required, it said.

Under Section 3403, a payor is liable for the amount that should have been withheld, the CCA continued. The payor may avoid this liability by proving that the payee paid the tax required to be withheld pursuant to Section 3402(d).

Three-Year Retention Rule. The taxpayer argued that after three years IRS can no longer assess backup withholding liabilities for failure to obtain Forms W-9, citing Treasury Regulations Section 31.3406(h)-3(g), which provides that Forms W-9 need only be retained for three years from the date an account is opened.

''While the rationale for the three-year retention rule for certificates is not entirely clear, it appears to be an attempt to lessen the burden on payors with respect to record retention only, and does not impact the backup withholding obligation,'' the Office of Chief Counsel said.

If Form W-9 was furnished but more than three years have passed and the taxpayer no longer retains the form, the taxpayer may avoid backup withholding liabilities by showing that the form was in fact received, the office said. However, the retention rule does not apply with respect to accounts for which Forms W-9 were never received, it said.

The taxpayer also argued there was no real harm to the government stemming from its failure to provide Forms 1099 to account holders, as many are sophisticated taxpayers operating on an accrual basis and would not rely on a Form 1099 to determine their income. The taxpayer asserted that these account holders are tax compliant and would have filed and paid their required income tax regardless of failing to receive the Forms 1099, the CCA said.

The office rejected the taxpayer's argument as unpersuasive. ''Information return penalties are based on the filer's failures and not the recipient's sophistication or tax compliance,'' it said.

The chief counsel advice was dated May 20.

Text of CCA 201037027 is in TaxCore.

Corporate Taxes

Informal CCA Says Intercompany Dividends Excluded From Parent's PHC Calculations

The Internal Revenue Service Office of Chief Counsel, in informal legal advice released Sept. 17, said that intercompany dividends received by a parent corporation from a non-personal holding company subsidiary are excluded from calculations of the parent's adjusted ordinary gross income for purposes of determining whether the parent is a PHC.

Under the facts presented in the CCA 201037028, the parent company of an affiliated group of corporations excluded subsidiary dividends from its adjusted ordinary gross income. A revenue agent concluded the taxpayer is not a personal holding company because it must include the dividends, and including the dividends

in AOGI reduces personal holding company income to less than 60 percent of AOGI.

As such, the revenue agent proposed that the group is subject to the accumulated earnings tax.

The Office of Chief Counsel said it believes the taxpayer properly excluded the intercompany dividends received from the subsidiary, citing Revenue Ruling 79-60, which held that a dividend paid by a subsidiary to its parent is eliminated for purposes of determining the parent's separate personal holding company income, and Rev. Rul. 74-131, in which IRS noted that intercompany dividends paid by a non-PHC member ''are eliminated for all purposes in determining the personal holding company income of the recipient member.''

''We believe that those revenue rulings support Taxpayer's conclusion that the intercompany dividend it received from Sub, which is not a PHC, is excluded for all purposes of the PHC calculations including AOGI,'' the CCA, dated May 25, concluded.

The Office of Chief Counsel provides informal legal advice via e-mail to IRS field attorneys, revenue agents, or appeals officers.

Text of CCA 201037028 is in TaxCore.

Exemption Rulings

IRS Releases Five Exemption Rulings Issued Between Sept. 3 and Sept. 16

The Internal Revenue Service Sept. 17 released five exemption rulings issued during the period Sept. 3 through Sept. 16.

IRS national office exemption letters respond to applications for tax-exempt status sent by the district offices to the national office for resolution because the issues the applications present are unprecedented or unusually complex, or because IRS internal procedural rules require consolidation at the national office level.

The rulings released are as follows:

- **All-American Foreclosure Solutions Inc.** (9/15/10). IRS determined the organization is exempt from tax under Section 501(c)(3) as an entity organized and operated exclusively for religious, charitable, scientific, educational, or similar purposes, and that contributions to the organization are deductible under Section 170.
- **Angel's Center of Hope** (9/7/10). IRS determined the organization is exempt from tax under Section 501(c)(3) and that contributions to the organization are deductible under Section 170.
- **Catholic Answers Action** (9/7/10). IRS determined the organization is exempt from tax under Section 501(c)(4) as a civic league or local association of employees.
- **Education Alliance Inc.** (9/14/10). IRS determined the organization is exempt from tax under Section 501(c)(3) and that contributions to the organization are deductible under Section 170.
- **Facilitator Center Inc.** (9/15/10). IRS determined the organization is exempt from tax under Section 501(c)(3), that contributions to the organization are deductible under Section 170.

The date of a letter generally refers to the date when a letter is mailed to the taxpayer but some letters are mailed a few days subsequent to the dates they bear and so are released to the public together with letters bearing later dates.

Texts of the exemption rulings, released by IRS pursuant to Internal Revenue Code Section 6104 and Notice 92–28, are published in TaxCore or may be purchased by calling BNA PLUS toll-free at 800-372-1033 (select Option 5, then Option 2), or by sending an e-mail to bnaplus@bna.com or fax to (703) 341-1643. Customers outside the United States should call (703) 341-3500 (select Option 5, then Option 2).

Tax Practice

Interaction Between Unenrolled Preparers, Taxpayer Advocate Service Examined in PMTA

The Internal Revenue Service Office of Chief Counsel, in a project manager technical advice memorandum posted to the IRS website Sept. 10, addressed a range of questions regarding the ability of Taxpayer Advocate Service employees to interact with unenrolled return preparers.

In additional PMTAs, the office addressed the responsibility of TAS employees with knowledge undocumented workers have used incorrect Social Security numbers to gain employment and said TAS does not have delegated authority to make a notice of federal tax lien determination when placing a taxpayer into a nonstreamlined installment agreement.

The office said in PMTA 2010-22 that it discovered a lack of guidance on the scope of an unenrolled return preparer's ability to interact with TAS employees. An unenrolled return preparer is an individual who prepares a third party's tax return, regardless of whether the individual signs the tax return, who is not otherwise authorized to practice before IRS, whether as an attorney, certified public accountant, or enrolled agent.

An unenrolled return preparer generally cannot represent a taxpayer before TAS, as most TAS cases involve a collection matter, the PMTA said. If, however, the unenrolled preparer seeks TAS assistance on behalf of a taxpayer with an examination issue, the unenrolled return preparer may represent the taxpayer before TAS, provided the unenrolled return preparer prepared the return that is the subject of the examination and the taxpayer has submitted a valid power of attorney appointing the unenrolled return preparer as the taxpayer's representative.

In contrast, it said, an unenrolled return preparer is not authorized to represent the taxpayer in a collection matter and cannot represent the taxpayer before TAS in attempting to resolve collection issues.

POA, Third-Party Designee Status. Where an unenrolled return preparer submits Form 2848, Power of Attorney and Declaration of Representative, the Office of Chief Counsel said TAS employees should accept the form only if:

- the unenrolled return preparer prepared the return,
- the return is under examination, and
- TAS assistance is being requested for an issue related to the examination of the return.

If a TAS employee receives a Form 2848 and these requirements have not been met, the employee should ad-

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vise the taxpayer and the unenrolled preparer that the unenrolled preparer cannot represent the taxpayer and explain the representation requirements to them, the office said.

Where the unenrolled return preparer did not prepare the return under examination, the taxpayer cannot appoint the unenrolled return preparer as the taxpayer's representative on Form 2848, the PMTA said, but the taxpayer may designate the unenrolled return preparer as a third-party designee, authorizing the unenrolled return preparer to receive or inspect return or return information.

As a third-party designee, the unenrolled return preparer generally will be entitled to receive copies of the notices that IRS provides to the taxpayer, the PMTA said, adding that a Form 8821, Tax Information Authorization, can be used by the taxpayer to designate the unenrolled return preparer as a third-party designee.

PMTA 2010-022 was dated June 24.

Code Bars Reporting Some SSN Violations. A second PMTA posted to the IRS website Sept. 10 addressed the responsibility of TAS employees with knowledge undocumented workers have used incorrect Social Security numbers to gain employment.

The office said in PMTA 2010-021 that Section 7803(c)(4)(A)(iv) that each local taxpayer advocate may, at his or her discretion, not disclose to IRS contact with, or information provided by, a taxpayer. ''This discretion not to disclose, however, is not absolute,'' it said.

For example, the PMTA continued, a TAS employee who has knowledge or information about a violation of the internal revenue laws must report such violation in writing to the national taxpayer advocate, who in turn would report the violation to the IRS commissioner.

The Internal Revenue Manual also provides that a TAS employee does not have the discretion to conceal a felony, the PMTA said, and failure to report a felony can itself be a federal crime.

Valid ITIN Used for Tax Filings. TAS often assists taxpayers who are undocumented workers and ineligible for Social Security numbers, and so have provided someone else's SSN in order to obtain employment, but who have obtained an individual taxpayer identification number from IRS in order to fulfill tax filing and payment responsibilities, the PMTA said.

A taxpayer who uses someone else's SSN to obtain ernployment but properly files and pays taxes on the wages earned has not violated the internal revenue laws, the Office of Chief Counsel said, and while using someone else's SSN to obtain employment may be prosecuted as a felony, it is not a felony under the tax title of the U.S. Code.

Nontax felonies should be reported to the agency that has jurisdiction over the particular activity, the office said. Section 6103, however, generally prohibits TAS employees from reporting a nontax felony based upon information furnished by a taxpayer or taxpayer's representative to any other federal agency, it said.

PMTA 2010-021 was dated June 21.

TAS Lacks Authority for Lien Determination. The Office of Chief Counsel in a third PMTA posted to the IRS website Sept. 10 said the Taxpayer Advocate Service does not have delegated authority to make a notice of federal tax lien determination when placing a taxpayer into a nonstreamlined installment agreement.

PMTA 2010-016 said Delegation Order No. 13-2 specifically provides that TAS has the authority to accept installment agreements under procedures contained in the Internal Revenue Manual, and one of four types TAS employees can accept is the nonstreamlined installment agreement (NSIA) up to $100,000.

A NFTL determination is required for NSIAs, the PMTA continued.

''The central premise underlying the delegation order is that the authorities delegated to TAS should not conflict with TAS's role as an advocate for the taxpayer,'' the Office of Chief Counsel said. ''TAS's authorities should be routine and nonsubstantive, and TAS should not be taking action on a case if such action could be appealed by the taxpayer.''

Potential Appeal by Taxpayer. If a NFTL is filed, the taxpayer may appeal the NFTL filing by requesting a hearing with Appeals, the office said. ''Thus, consistent with the foundational premise that TAS should not be taking action in a case if such action could be appealed by the taxpayer, Delegation Order No. 13-2 (Rev. 1) does not provide TAS with the delegated authority to make NFTL determinations in NSIA cases.''

The PMTA said TAS employees working cases involving NSIAs should consider whether, based on the specific facts and circumstances, it is appropriate to advocate that a NFTL not be filed because the filing would create harm or otherwise impede collection of tax. If the TAS employee determines that it is appropriate to advocate a NFTL not be filed, it said, he or she should forward an operations assistance request to the operating division, requesting that the NSIA be accepted without the filing of a NFTL.

PMTA 2010-016 was dated May 6.

Texts of PMTA 2010-016, PMTA 2010-021, and PMTA 2010-022 are in TaxCore.

Interest

PMTA Says IRS May Not Unilaterally Credit Excess Section 6603 Deposit to Tax Liability

The Internal Revenue Service Office of Chief Counsel said in a project manager technical advice memorandum posted to the IRS website Sept. 10 that an excess Section 6603 deposit is not an overpayment, and thus the service may not unilaterally credit an excess deposit to an outstanding liability.

Section 6603, created by the 2004 American Jobs Creation Act (Pub. L. No. 108-357), allows a taxpayer to make a designated interest-bearing cash deposit for a potential future payment of tax, which has not been assessed at the time of deposit, PMTA 2010-023 said. Effectively, the making of the cash deposit provides the taxpayer with relief from the accrual of Section 6601 underpayment interest, it said.

Revenue Procedure 2005-18 sets out rules for administration of Section 6603 remittances, the Office of Chief Counsel said, and the procedure makes clear a taxpayer may only elect to have a deposit that exceeds the amount of tax ultimately determined to be due ap-

plied against another liability after agreeing to the assessment.

Agreement, Written Request Required. The procedure also specifies that the request to apply the excess deposit to another assessed or unassessed liability must be in writing, and so the taxpayer can only ''convert'' a Section 6603 deposit to a payment by agreeing to the assessment of the specific liability that the deposit was made to satisfy, the office said.

IRS should require strict compliance with Rev. Proc. 2005-18, the PMTA said. ''If a taxpayer requests that an excess deposit be applied to another liability, . . . the Service should process that new section 6603 deposit only if it is in writing and accompanied by the disputable tax calculation. The date of that deposit should be the later date that the service 'converts' the excess to a new deposit with respect to the new liability.''

Similarly, the PMTA said, overpayments may not be converted to Section 6603 remittances. If the taxpayer does not have a liability to which IRS may credit the overpayment, the service should refund the overpayment to the taxpayer, it said. The taxpayer may then designate a Section 6603 deposit, in compliance with Rev. Proc. 2005-18, via a new check.

Conversion, Reallocation Cause 'Significant Confusion.' ''Although it would be administratively convenient for the taxpayer to simply 'convert' the overpayment to a designated remittance, the Service is not required to do this. The Service is also not required to comply with taxpayer requests to 'reallocate' section 6603 remittances,'' the PMTA concluded. '' We do not recommend that the Service do so because conversion and reallocation cause significant administrative confusion.''

The PMTA, dated June 30, reviewed various factual scenarios regarding IRS handling of Section 6603 remittances.

Text of PMTA 2010-023 is in TaxCore.

Corporate Reorganizations

Range of 368(a)(1)(D) Transactions Addressed in Reorganization Rulings

The Internal Revenue Service in private letter rulings released Sept. 17 examined a variety of transactions involving Section 368(a)(1)(D) reorganizations, including a multinational group's plan for separating its lines of business and distributing shares of a new controlled corporation to stockholders.

The most complex of the reorganization rulings, PLR 201034026, involved the multistep reorganization planned by the publicly traded common parent of a consolidated return group with subsidiaries conducting two business lines, which also directly or indirectly owns a number of foreign subsidiaries conducting those lines of business.

In order to separate the business lines, it proposed a transaction by which it will form a new controlled corporation to own assets and subsidiaries connected with one line of business, which will itself form a merger subsidiary. The parent will contribute certain assets and stock of certain first-tier subsidiaries to the controlled corporation, and the merger subsidiary will merge with another of the first-tier subsidiaries, so that all are wholly owned by the controlled corporation.

A foreign lower-tier subsidiary will transfer assets related to the line of business to an existing foreign second-tier subsidiary, which will transfer its assets related to the other business line to its upper-tier subsidiary owner, each in exchange for cash equal to the fair market value of the transferred assets. IRS said the transfer of the unrelated business line assets would be treated as integrated with other steps in the proposed transaction.

The upper-tier subsidiary owner will transfer business line assets to the second-tier subsidiary and another subsidiary, also in exchange for cash value, and immediately thereafter will contribute the cash proceeds from the sale to the second-tier subsidiary back to that subsidiary.

IRS noted the group is seeking rulings that the circular flow of cash from the subsidiary to its owner and back again may be disregarded, and that the transfer of assets from the owner to the subsidiary may be treated as a contribution of property to a controlled subsidiary. The circular flow of cash will be disregarded, it said.

Foreign Reorganizations. Another second-tier subsidiary will contribute a receivable to its wholly owned controlled foreign corporation, then transfer all of the controlled corporation stock to the same second-tier subsidiary to which other transfers were made in a transaction intended to qualify as a reorganization under foreign law. No payment will be made for the controlled corporation stock.

A similar transaction will be undertaken by a third second-tier subsidiary, which will not contribute a receivable but will transfer its controlled corporation stock in a foreign reorganization transaction.

The group is seeking rulings that these transfers may be treated for U.S. tax purposes as if the contributing second-tier subsidiaries distributed the controlled corporations to their first-tier subsidiary owner, and then the first-tier subsidiary contributed the controlled corporations to the other second-tier subsidiary, the first-tier subsidiary being the owner of all the others.

IRS said the transfers would be treated as having been made through the first-tier subsidiary and would qualify as reorganizations within the meaning of Section 368(a)(1)(D).

The parent corporation will form a second new controlled corporation to which its first-tier subsidiary will transfer all of the assets of multiple subsidiaries, including the one in which assets related to the business line to be separated have been accumulated, in a transaction intended to qualify as a reorganization under foreign law, and IRS said the group is seeking rulings that this transfer be treated for U.S. federal income tax purposes as if the first-tier subsidiary formed the controlled corporation, transferred the assets, and then distributed the controlled corporation to the parent.

IRS said it the transaction would be treated as requested, and the contribution and distribution together will qualify as a reorganization within the meaning of Section 368(a)(1)(D).

Additional Transactions Contemplated. The parent will contribute the second new controlled corporation stock to the first new controlled corporation. That controlled corporation will form a new domestic subsidiary.

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One subsidiary will purchase another, foreign subsidiary as a shelf company from a service provider for a nominal amount and the new domestic subsidiary will purchase that foreign subsidiary for the same amount, contribute cash to it, and it will purchase all of the outstanding stock of another foreign subsidiary from the same upper-tier owner.

The parent also will purchase all the outstanding stock of a subsidiary from its upper-tier owner for fair market value and contribute that stock to the first new controlled corporation; other subsidiaries will undertake asset transfers and purchases, and reorganizations in which some subsidiaries will become disregarded entities also are planned.

Finally, the parent corporation will distribute all of the outstanding stock of the first-tier new controlled corporation to its shareholders on a pro rata basis. After the distribution, it is intended two subsidiaries will ultimately be merged upstream into a third subsidiary.

IRS held that a number of the transactions contemplated between subsidiaries would also qualify as Section 368(a)(1(D) reorganizations, as will a series of contributions to the new controlled corporation followed by distribution of its stock to parent shareholders.

PLR 201034026 was dated June 11.

Other Reorganization-Related Rulings. In additional PLRs regarding corporate reorganizations released Sept. 17, IRS:

- said in two substantially similar rulings that transactions undertaken by a foreign parent corporation to combine the operations of a first-tier U.S. subsidiary and a second-tier U.S. subsidiary previously owned by another, foreign first-tier subsidiary, in which the second-tier subsidiary will transfer to the U.S. first-tier subsidiary all of its operating assets in exchange for cash prior to winding up its operations and liquidating into the parent, will qualify as reorganizations under Section 368(a)(1)(D) (PLR 201037019 and PLR 201037020); and
- supplemented PLR 200851014 (245 DTR K-3, 12/22/08), regarding a Section 368(a)(1)(D) reorganization undertaken to separate lines of business in a consolidated return group, to take into account additional facts that include the parent's repurchase of some of its common stock on the open market (PLR 201037024).

Texts of PLR 201037019, PLR 201037020, PLR 201037024, and PLR 201037026 are in TaxCore.

Tax Evasion

Financial Adviser Sentenced to Prison For Hiding $8.8 Million in Swiss Accounts

The U.S. Attorney's Office for the Southern District of New York announced Sept. 17 that Federico Hernandez, a Manhattan-based financial adviser, was sentenced to 12 months in prison for hiding $8.8 million from the Internal Revenue Service by using sham companies to conceal his ownership of secret Swiss bank accounts held by UBS AG (*United States v. Hernandez*, S.D.N.Y., No. 1:10-cr-00334, *sentencing memorandum filed* 9/16/10).

Hernandez was one of seven U.S. taxpayers charged on April 15 with filing false tax returns and related crimes for hiding Swiss bank accounts from the IRS (72 DTR K-1, 4/16/10). He pled guilty to five counts of subscribing to false federal income tax returns and, as part of his agreement, he agreed to pay a civil Foreign Bank and Financial Accounts penalty of $4.4 million.

In addition to the sentence of imprisonment, U.S. District Court Judge Denny Chin imposed a sentence of six months home confinement. Judge Chin was confirmed by the Senate to serve on the U.S. Court of Appeals for the Second Circuit on April 22.

UBS Accounts. The U.S. Attorney's Office release explained that, from at least 2000 to 2008, UBS helped U.S. taxpayers conceal Swiss-based accounts and the income earned in those accounts, from the IRS.

In February 2009, UBS entered into an agreement with the United States. As part of the agreement, UBS provided the U.S. government with the identities of, and account information for, certain U.S. customers of UBS's banking business.

In 2001 and 2006, Hernandez opened UBS accounts in the names of sham British Virgin Islands and Panama corporations to hide ownership of the accounts. Hernandez also signed several tax related forms that said the entities were the true owners of the accounts when in fact Hernandez knew that he was the sole owner of the accounts, the release said.

The release said that Hernandez also filed false income tax returns from 2001 to 2008 that failed to report income earned in the UBS accounts.

Text of the sentencing memorandum is in TaxCore.

Estate Taxes

Texas Judge Declines to Amend Finding Estate Entitled to $60.4 Million in Deductions

A Texas district court judge issued a Sept. 14 opinion declining to amend his finding that the co-executors of an estate were entitled to a tax refund and a Sept. 15 opinion finding that the estate was entitled to a $60.4 million deduction for interest, fees, and administrative expenses (*Keller v. United States*, S.D. Tex., No. V-02-62, 9/14/10; *Keller v. United States*, S.D. Tex., No. V-02-62, 9/15/10).

In a previous ruling the judge for the U.S. District Court for the Southern District of Texas found that the estate of Maude O'Connor Williams was entitled to deduct the interest on a loan from an investment partnership set up by her financial advisers to two trusts she controlled (163 DTR K-1, 8/26/09). Judge John D. Rainey found the loan to be a necessary administrative expense.

Williams died in 2000, leaving an estate valued at $383 million, and reported an estate tax liability of $143 million.

In his breakdown of the allowed deductions, Rainey said $2.28 million were for accounting fees, $2.64 million were for legal fees, $52 million were for interest on the loan from the partnership that was at issue in his initial ruling, and $3 million were for executor/trustee fees. Rainey disallowed $12 million in claimed deductions for trustee fees paid to Williams's family members and $9.5 million in legal contingency fees.

Loans Satisfied Economic Substance Test. The government asked Rainey to reconsider his previous ruling, claiming the loan lacked economic substance and was created for the purpose of generating a deduction and, even if the loan was proper, the loan payments after August 2004 were not deductible.

''The loan in this case satisfies the economic substance test,'' wrote Rainey. ''The loan at issue imposed liability on the makers in the event of default and applied interest at the applicable federal rate. Moreover, millions of dollars of interest have been paid on the loan and reported as income to the Partnership. Further, the loan was entered to preserve the liquidity of the estate.''

If the trusts at issue are property not subject to claims under Section 2053, and no exception applies, then payments after the 6501 statute of limitations for assessing additional taxes—three years after the estate tax was filed in August 2001—are not deductible, wrote Rainey. The government contended that property not subject to claims is generally property that passes outside of the probate estate and the trusts passed outside the estate.

Rainey, however, agreed with the estate and found that whether property is subject to claims under Section 2053 is not informed by whether the property was part of the probate estate. He said the proper inquiry is whether the trusts at issue bore the burden of paying the claimed deductions. After reading the relevant provisions of the will and trust agreement, Rainey found that the trusts bear the burden of payment under Texas law, and therefore the administrative expense of interest on the loan is deductible.

$21.5 Million in Fee Deductions Rejected. The government contended that the $9.5 million contingency fee paid to the law firm of Meadows, Owens, Collier Reed Co. was unnecessary. The estate claimed that, from the inception of the case, the firm agreed that it would receive an undefined bonus contingent on the recovery of a sizable refund. However, the estate entered into a revised fee agreement with the firm after the judge issued his initial findings of fact.

''The Amended and Restated Fee Agreement provides for Meadows, Collier to be compensated on an hourly rate, in addition to the contingency fee,'' wrote Rainey. ''The Court finds that the contingency fee is not necessary to the administration of the Estate; rather, it is an attempt by Plaintiffs to increase their deductions.''

The estate also claimed $15 million in executor/trustee fees. Of that amount, $6 million was paid to Williams's daughter, and two of her grandsons received $3 million each. Rayford L. Keller, who also served as executor, also received a $3 million fee.

''The record shows that Rayford Keller, who was paid $3,000,000.00 in executor/trustee fees, was actually the person who performed the role of Executor of the Estate, and the Court finds that all payments made to him in his role as Executor were both actual and necessary,'' wrote Rainey. ''The Court cannot say the same for payments made to the other three Executors.''

Texts of the Sept. 14 and Sept. 15 decisions are in TaxCore.

IRS Private Letter Rulings

PLRs Address Capitalization After Merger, Exempt Status Revocations, Other Issues

The Internal Revenue Service in private letter rulings released Sept. 17 addressed a range of taxpayer requests for guidance and extensions of time, including a taxpayer's request to change to a method other than the principal method of accounting for identifying and allocating costs under Section 263A following a merger to which Section 381 applies.

The service also ruled that various organizations fail to qualify for tax-exempt status; additional rulings addressed the treatment of various corporate reorganization-related issues (see related report in this issue).

Exempt Organization Failures. In rulings regarding the exempt status of organizations, IRS:

- said an organization formed to promote and develop the talent of young dancers did not qualify for exemption under Section 501(c)(3) where it benefits only dancers whose parents participate in fund-raising efforts, thus serving private interests (PLR 201037029);
- said an organization failed to qualify for exemption under Section 501(c)(3) where its assets inured to the private benefit of its founder (PLR 201037030);
- revoked the Section 501(c)(3) exempt status of organizations that failed to produce documents requested by the service to demonstrate they were operated exclusively for exempt purposes (PLR 201037031 and PLR 201037033);
- revoked the Section 501(c)(3) exempt status (PLR 201037032) and Section 501(c)(4) exempt status (PLR 201037034) of organizations that have ceased all operations and activities;
- revoked the Section 501(c)(19) exempt status of a veterans organization where its operations could not be distinguished from those of a commercial for-profit bar (PLR 201037035);
- revoked an organization's Section 501(c)(19) group exemption where more than half its gross receipts from subordinate veterans clubs constituted nonmember income and private benefit inured to its president (PLR 201037036);
- said an organization formed to conduct clinical research studies did not qualify for exemption under Section 501(c)(3) where its activities are conducted to further the commercial purposes of sponsoring pharmaceutical companies (PLR 201037037); and
- said an organization formed to issue tax-exempt bonds or arrange other tax-exempt financing to further projects determined by its founder, and benefiting the interests of the founder and a joint venture with a for-profit company of which he is majority shareholder, does not qualify for exemption under Section 501(c)(3) (PLR 201037039).

Other Topics Addressed. Topics addressed in other rulings included:

- **Capitalization.** IRS granted consent for a taxpayer to change to a method other than the principal method of accounting for identifying and allocating costs under Section 263A following a merger to which Section 381 applies, where the taxpayer is not permitted to continue to use all of the principal methods of

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identifying and allocating costs because some of those methods do not clearly reflect its income (PLR 201037017).

■ **Energy.** IRS said a public utility's sale of renewable energy certificates will not result in private business use of bonds issued to refinance existing obligations and additional costs associated with a wind power generating facility (PLR 201037006). In addition, IRS approved revised schedules of ruling amounts related to nuclear power plant decommissioning funds for purposes of taxpayers' computations of deductions under Section 468A (PLR 201037016 and PLR 201037025).

■ **REITs.** IRS said a real estate investment trust's buildings with specialty heating, ventilation, and air conditioning structural components designed to meet the technological requirements of tenants constitute real property for purposes of Section 856(c), and the REIT's provision of utility, security, and other services through a wholly owned limited liability company will not cause amounts received from tenants to be treated as other than rents under Section 856(d) (PLR 201037005).

■ **RICs.** IRS said regulated investment company funds' income and gains from commodities-linked notes will constitute qualifying income under Section 851(b)(2) (PLR 201037012), and that Subpart F income earned from funds' ownership of stock in wholly owned subsidiary controlled foreign corporations will also be qualifying income (PLR 201037014).

■ **S Corporations.** IRS granted relief where S corporation elections were inadvertently terminated because beneficiaries of trust shareholders failed to timely elect qualified Subchapter S trust status (PLR 201037001) or because shares were purchased by a C corporation, an invalid shareholder, but have since been sold to eligible shareholders (PLR 201037004).

Requests for Extensions of Time. In rulings regarding taxpayer requests for extensions of time, the service:

■ granted an extension of time for allocation of a decedent's generation-skipping transfer tax exemption to transfers made to a trust, holding distributions already made from the trust to the decedent's grandchildren would also be exempt from tax (PLR 201037002);

■ granted extensions of time for entities to elect treatment as disregarded entities (PLR 201037003, PLR 201037009, PLR 201037010, PLR 201037011, and PLR 201037022);

■ granted an extension of time for an entity to elect treatment as an association taxable as a corporation (PLR 201037007);

■ granted an extension of time for entities to elect treatment as partnerships (PLR 201037008);

■ granted an extension of time for a purchasing corporation and seller to make a Section 338(h)(10) election with respect to a stock acquisition (PLR 201037013);

■ granted extensions of time for entities to elect S corporation status (PLR 201037015 and 201037023);

■ granted extensions of time for foreign corporation to elect under Section 953(d) to be treated as domestic corporations for U.S. tax purposes (PLR 201037018 and PLR 201037021), also granting in PLR 201037018 an extension for the taxpayer to elect under Section 831(b) to be subject to the alternative tax for certain small insurance companies; and

■ denied a waiver of the 60-day rollover requirement for distributions from individual retirement accounts where it failed to find financial institution error caused the taxpayer to miss the deadline (PLR 201037038).

Texts of the rulings, released weekly by IRS pursuant to Section 6110 of the Internal Revenue Code, are published in TaxCore, or can be purchased by calling BNA PLUS toll-free at 800-372-1033 (select Option 5, then Option 2), or by sending an e-mail to bnaplus@bna.com or fax to (703) 341-1643. Customers outside the United States should call (703) 341-3500 (select Option 5, then Option 2).

Court Decisions in Brief

Court Affirms Dismissal of Tax Lien Auction Suit

The U.S. Court of Appeals for the Fourth Circuit, in a Sept. 16 unpublished opinion, affirmed a district court's order that dismissed the action of Stephen and Kimberly Buzzell in which they sought a declaration that their rights were violated (*Buzzell v. IRS*, 4th Cir., No. 09-2257, 9/16/10).

The Buzzells also sought to enjoin Internal Revenue Service collection activities and the sale of their property. The couple's mortgage lender foreclosed on a piece of property and sold it at auction and the IRS redeemed the property to enforce a tax lien and ultimately sold it at auction.

Text of the decision is in TaxCore.

Tax Return Data Case Remanded to District Court

The U.S. Court of Appeals for the Ninth Circuit, in a Sept. 16 unpublished opinion, affirmed in part, reversed in part, and remanded to a district court the district court's order that the Internal Revenue Service deliver statistical information to Susan Long, co-director of the Transactional Records Access Clearinghouse, within 30 days (*Long v. IRS*, 9th Cir., No. 08-35672, 9/16/10).

The district court's order of June 2008 also ordered IRS to comply with future requests within 30 days (117 DTR K-1, 6/18/08). IRS objected to certain disclosures on the ground that the disclosures would violate an exemption under the Freedom of Information Act and a prohibition by Internal Revenue Code Section 6103.

The case focused on the use and release of certain types of tax data and the court of appeals held that ''cells of one'' used in statistical tables that were being used internally by the IRS to manage its auditing activities were nondisclosable return information under tax code Section 6103(b)(2).

Text of the decision is in TaxCore.

Plaintiffs May Depose IRS Employees, Court Says

The U.S. District Court for the Northern District of Iowa Sept. 15 ordered that plaintiffs Shane and Lisa Philpott, husband and wife, and the Christian Fellowship, could depose witnesses (one current and two former employees of the Internal Revenue Service) on plaintiffs' claim that defendants city of Mason City, Iowa; Michael Lashbrook, chief of the city police de-

partment; and Logan Wernet, a city police officer, defamed plaintiffs by knowingly making false statements to the IRS (*Philpott v. Mason City, Iowa*, N.D. Iowa, No. C09-3062-DEO, 9/15/10).

The plaintiffs claimed the false statements were based on the defendants' disapproval of the plaintiffs' religious beliefs and practices and, because of the false statements, the Philpotts were audited by the IRS. When the Philpotts filed a Freedom of Information Act request, they learned that Wernet was the source of the false information.

Text of the decision is in TaxCore.

St. Louis Attorney Barred for IRA Tax Scheme

A Missouri attorney and his law firm were barred by a judge for the U.S. District Court for the Eastern District of Missouri Sept. 17 from promoting any individual retirement account-based arrangements after he helped clients evade contribution limits for Roth IRA accounts and accumulate millions in tax-free gains on the accounts, the Justice Department announced (*United States v. Kaiser*, E.D. Mo., No. 4:10-cv-00612-RWS, 9/17/10).

According to DOJ, Philip A. Kaiser promoted a number of schemes to his clients. The listed schemes included private IRA corporation tax arrangements, real estate purchase option tax arrangements, and the Derivium tax arrangement.

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Calendar

Congress

Small Firms Jobs Bill Moves Back to House; Senate to Begin Work on DOD Authorization

The House will consider the recently passed Senate version of a small business tax bill during the Sept. 20 week, while the Senate is scheduled to begin debating the Department of Defense authorization bill.

House Speaker Nancy Pelosi (D-Calif.) said Sept. 17 that the House will debate the Senate-passed Small Business Lending Fund Act (H.R. 5297) during the shortened Sept. 20 work week. The bill would create a $30 billion lending pool for small community banks and offer tax incentives for small businesses.

The Senate's version of the bill, which passed Sept. 16 on a vote of 61-38, differs significantly from the House version, which passed in June on a vote of 241-182. The Senate-passed version contains $12 billion in tax incentives, compared to $3.6 billion in the House version.

The Senate-approved bill would allow small business owners to deduct the cost of their own family health insurance when calculating 2010 self employment taxes. Other Senate changes to the small business bill include a modification of the new Form 1099 information reporting requirements and language to increase the maximum amount that small businesses can write off in capital expenditures in 2010 and 2011.

The House could begin consideration of the Senate amendment to the small business legislation as early as Sept. 22.

The House will begin its week Sept. 20 at 2:30 p.m. with a pro forma session. Representatives are scheduled to meet Sept. 21 at 2:30 p.m., with no votes scheduled. The House meets Sept. 22 at 2 p.m. for legislative business, with all roll-call votes postponed until 6 p.m. Members of the House also meet Sept. 23 at 10 a.m. and Sept. 24 at 9 a.m.

Senate Considers DOD Bill. The Senate will meet Sept. 20 to resume consideration of the motion to proceed to the National Defense Authorization Act (S. 3454). The legislation, which was reported by the Senate Armed Services Committee in May, authorizes fiscal year 2011 funding for the Department of Defense and the Department of Energy's national security programs.

The legislation would authorize an across-the-board pay raise of 1.4 percent for all members of the U.S. Armed Forces and allow dependents to be covered under the TRICARE program, the military's health plan, until age 26. The bill also contains a controversial provision that would repeal the controversial DOD ''Don't Ask, Don't Tell'' policy.

Sen. Majority Leader Harry Reid (D-Nev.) also plans to offer the DREAM Act (S. 729) as an amendment to the DOD authorization bill. The DREAM Act would grant conditional permanent resident status to illegal aliens who entered the country before their 16th birthday, have lived in the country for at least five years, and have earned a high school diploma.

The Senate began consideration of a motion to proceed to the DOD authorization bill on Sept. 16, and is scheduled to resume consideration of the motion Sept. 20 at 3 p.m. Reid entered a motion to close further debate on the motion to proceed, with a cloture vote scheduled for Sept. 21 at 2:15 p.m.

The Senate will begin its week Sept. 20 at 2 p.m. As it usually does on Tuesdays, the Senate will recess Sept. 21 from 12:30 p.m. to 2:15 p.m. for the weekly party conferences to meet.

Congressional committees announced their schedule of meetings for the week of Sept. 20, highlighted by hearings on tax issues, economic policy, regulatory issues, and energy.

Committees Examine Tax Issues. The Senate Finance Committee will hold a Sept. 22 hearing on tax and fiscal policy, focusing on the military and veterans community. Representatives from the Reserve Officers Association of the United States and the Montana National Guard are among the witnesses expected to appear. The hearing is set to begin at 10 a.m. in Room 215 of the Dirksen Senate Office Building.

Former Rep. Richard Gephardt (D-Mo.) will appear as a witness during a Sept. 23 Senate Finance Committee hearing on tax reform. The hearing will focus on the Tax Reform Act of 1986. The committee meets at 10 a.m. in Room 215 of Dirksen.

Hearings on Economic Crisis, Job Creation. The Senate Budget Committee meets Sept. 22 hearing on the economic crisis. The committee will examine federal gov-

TODAY'S CONGRESSIONAL MEETINGS

SENATE

Meets at 2 p.m.

Continues on motion to proceed to S. 3454, DOD authorization.

Committee Meetings Scheduled

NONE.

HOUSE

Meets at 2:30 p.m.

Holds a pro forma session.

Committee Meetings Scheduled

NONE.

ernment policies enacted in response to the crisis, beginning at 10 a.m. in Room 608 of Dirksen.

Pennsylvania Gov. Ed Rendell (D) and Assistant Treasury Secretary for Economic Policy Alan Krueger are among the witnesses scheduled to testify during a Sept. 21 Senate Banking Committee hearing. The hearing will focus on creating jobs and promoting economic growth. The committee convenes at 10 a.m. in Room 538 of Dirksen.

The Senate Homeland Security and Governmental Affairs Committee convenes Sept. 21 to vote on the nomination of Jacob Lew to be director of the Office of Management and Budget. That meeting is scheduled to begin at 9:15 a.m. in Room 342 of Dirksen.

Meeting on Financial Systems Modernization. The House Financial Services Committee plans to hold a Sept. 22 hearing on the state of the international financial system. The hearing, which will include a discussion of the implementation of the Dodd-Frank financial reform law, begins at 2 p.m. in Room 2128 of the Rayburn House Office Building.

A House Financial Services subcommittee meets Sept. 23 for a hearing on the Securities Investor Protection Act. The Subcommittee on Capital Markets, Insurance, and Government-Sponsored Enterprises will explore the limitations of the legislation during the hearing, which begins at 10 a.m. in Room 2128 of Rayburn.

The Senate Banking Committee meets Sept. 22 for a hearing on oversight of the Securities and Exchange Commission. The committee will examine the SEC inspector general's report on the SEC's response to Robert Allen Stanford's alleged Ponzi scheme and improved SEC performance. That hearing will be held at 10 a.m. in Room 538 of Dirksen.

Lanny Breuer, assistant attorney general, will testify before the Senate Judiciary Committee during a Sept. 22 hearing on the Fraud Enforcement and Recovery Act. That hearing, focusing on investigating and prosecuting financial fraud cases, starts at 2 p.m. in Room 226 of Dirksen.

Hearings on Energy Issues. The Senate Energy Committee announced a Sept. 23 hearing on the Energy Department's Loan Guarantee Program. The committee will examine the program's impact on the deployment of clean energy technology. That hearing will be held at 9:30 a.m. in Room 366 of Dirksen.

The House Natural Resources Subcommittee on Energy and Mineral Resources will hold a Sept. 23 hearing on a bill (H.R. 4817) that would amend the Surface Mining Control and Reclamation Act of 1977 to clarify that states and Indian tribes have the authority to use certain payments to fund noncoal reclamation projects. That hearing starts at 10 a.m. in Room 1334 of the Longworth House Office Building.

The House Energy and Commerce Subcommittee on Energy and Environment will meet Sept. 23 for a hearing on pipeline safety oversight and legislation. That hearing will begin at 2 p.m. in Room 2123 of Rayburn.

Privacy Hearings. The Senate Commerce Subcommittee on Consumer Protection, Product Safety, and Insurance holds a Sept. 22 hearing on the Data Security and Breach Notification Act of 2010 (S. 3742). That bill would require the Federal Trade Commission to create new regulations for companies that deal with personal data and require that both the FTC and affected individuals be notified of data security breaches. The subcommittee meets at 2:30 p.m. in Room 253 of the Senate Russell Office Building.

James Baker, associate deputy attorney general, will testify before the Senate Judiciary Committee during a Sept. 22 hearing on the Electronic Communications Privacy Act. That hearing, focusing on promoting security and protecting digital privacy, begins at 10 a.m. in Room 226 of Dirksen.

Other Committee Meetings. The House Energy and Commerce Subcommittee on Health announced a Sept. 21 hearing on Medicare and Medicaid. The hearing, focusing on cutting waste, fraud, and abuse, will start at 2 p.m. in Room 2322 of Rayburn.

The Senate Rules Committee will hold a Sept. 22 hearing on the filibuster, focusing on legislative proposals to alter Senate procedure. The committee will examine a resolution (S. Res. 416) that would alter the number of votes required to invoke cloture on legislation in the Senate and a measure (S. Res. 619) that would express the sense of the Senate that the Senate of each new Congress should not be bound by the Rules of previous Senates. The hearing will be held at 10 a.m. in Room 301 of the Russell building.

A list of committee meetings tentatively scheduled for the week of Sept. 20 is in the legislative calendar in this section.

By Patrick Ambrosio

Congress

GOP Agrees to Clear More Nominees But Senate Vote on 'Holds' Still Planned

Senate Majority Leader Harry Reid (D-Nev.) is planning to go ahead with a vote on lawmakers' use of so-called secret holds the week of Sept. 20 even though Republican leaders agreed to clear another package of President Obama's nominees.

Reid's office said the Democratic leader still plans to use the Department of Defense authorization bill to bring up a proposal aimed at making public lawmakers' use of holds to block action on nominees. Reid will schedule a vote on the matter even though the GOP agreed late Sept. 16 to permit more than 25 of Obama's nominees to be confirmed on voice vote.

The proposal that Reid plans to bring up was developed by Sens. Ron Wyden (D-Ore.), Charles Grassley (R-Iowa), and Claire McCaskill (D-Mo.). It would not end the Senate practice of using holds to prevent action on both nominees and legislation but instead would require those holds to be made public via notice in the *Congressional Record* one day after being filed with party leaders.

The vote will come after the lawmakers spent the last several months working to build support for ending a practice that they said allowed long lists of Obama's nominees to remain stalled on the Senate's executive calendar during the past year. Reid and others said far more of Obama's nominees were awaiting action on the calendar than those of former President Bush at a similar time in his first term.

Cleared under a unanimous consent agreement worked out between Reid and Senate Minority Leader

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Mitch McConnell (R-Ky.) Sept. 16 was a list of 27 nominees that included many that had been on the calendar since 2009. Included were some nominees—from Jill Long Thompson to serve on the board that oversees the Farm Credit Administration to Francisco Sanchez to head up the Commerce Department's international trade office—that Obama had recess appointed this spring.

Many Nominees Remain on Calendar. McConnell's spokesman said the action in clearing the nominees undercuts arguments made by the president and congressional Democrats that Republicans have been holding up his nominees.

The latest package was approved by unanimous consent, and, when combined with other Obama nominees confirmed by the Senate, "there have now been more than 730 nominees cleared without 'a 60-vote filibuster,' " spokesman Don Stewart said. The latter figure includes many officers in the military services.

Stewart said the action stands in contrast to Obama's remarks at a Sept. 10 press conference when the president said Republicans were insisting "on a 60-vote filibuster on every single person that we're trying to confirm."

However, some other 50 nominees remained on the executive calendar as of Sept. 20, including a dozen that were reported from committee in 2009. They include Obama's picks to serve at the Legal Services Corporation, the Equal Employment Opportunity Commission, and the departments of Homeland Security, State, and Treasury. The nominees still being held up range from Philip E. Coyle to serve as associate director of the Office of Science and Technology Policy at the White House to Islam Siddiqui to serve as chief agriculture negotiator.

Reid's office did not say when a vote on the proposal to end secret holds will occur. Reid first has to find 60 votes to even move to the DOD bill (S. 3454). A vote on Reid's motion to invoke cloture to proceed to the legislation is scheduled to occur midday on Sept. 21.

Moreover, it is not clear whether Republicans will support the amendment to end secret holds. Although more than 60 senators—including 10 Republicans—earlier signed on to a letter that McCaskill circulated calling for an end to their use, it is not a certainty that all of those lawmakers will vote for the amendment. Among other things, aides said Republicans are critical of Reid's plans to bring up this and other non-defense amendments to the DOD bill.

Nominees Approved as Part of Package. The following is a list of the nominees that were confirmed on voice vote under the Sept. 16 unanimous consent agreement:

- Francisco J. Sanchez to be undersecretary of Commerce for international trade;
- Barbara Short Haskew to be a member of the Board of Directors of the Tennessee Valley Authority for a term expiring May 18, 2014;
- Neil G. McBride to be a member of the Board of Directors of the Tennessee Valley Authority for a term expiring May 18, 2013;
- Jill Long Thompson to be a member of the Farm Credit Administration Board, Farm Credit Administration, for a term expiring May 21, 2014;
- Charles P. Blahous, III, to be a member of the Board of Trustees of the Federal Hospital Insurance Trust Fund for a term of four years;
- Charles P. Blahous, III, to be a member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for a term of four years;
- Charles P. Blahous, III, to be a member of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for a term of four years;
- Robert D. Reischauer to be a member of the Board of Trustees of the Federal Hospital Insurance Trust Fund for a term of four years;
- Robert D. Reischauer to be a member of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for a term of four years;
- Robert D. Reischauer to be a member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for a term of four years;
- Joshua Gotbaum to be director of the Pension Benefit Guaranty Corporation;
- William B. Sansom to be a member of the Board of Directors of the Tennessee Valley Authority for a term expiring May 18, 2014;
- Marilyn A. Brown to be a member of the Board of Directors of the Tennessee Valley Authority for a term expiring May 18, 2012;
- Elisabeth Ann Hagen to be undersecretary of Agriculture for food safety;
- Dennis J. Toner to be a governor of the United States Postal Service for the remainder of the term expiring Dec. 8, 2012;
- J. Patricia Wilson Smoot to be a commissioner of the United States Parole Commission for a term of six years;
- Sara Louise Faivre-Davis to be a member of the Board of Directors of the Federal Agricultural Mortgage Corporation;
- Lowell Lee Junkins to be a member of the Board of Directors of the Federal Agricultural Mortgage Corporation;
- Myles J. Watts to be a member of the Board of Directors of the Federal Agricultural Mortgage Corporation.
- Richard M. Lobo to be director of the International Broadcasting Bureau, Broadcasting Board of Governors;
- Michael C. Camunez to be an assistant secretary of Commerce;
- Mimi E. Alemayehou to be executive vice president of the Overseas Private Investment Corporation;
- Carl Wieman to be an associate director of the Office of Science and Technology Policy;
- Robert M. Orr to be United States Director of the Asian Development Bank, with the rank of ambassador;
- Catherine E. Woteki to be undersecretary of Agriculture for research, education, and economics;
- Mark Feierstein to be an assistant administrator of the United States Agency for International Development; and
- Nisha Desai Biswal to be an assistant administrator of the United States Agency for International Development.

By Nancy Ognanovich

LEGISLATIVE CALENDAR

SENATE

Floor Action

Sept. 17

Did not meet.

To reconvene Sept. 20 at 2 p.m. to resume consideration of the motion to proceed to consideration of **S. 3454**, to authorize fiscal year 2011 appropriations for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year.

Sept. 16

Began consideration of the motion to proceed to **S. 3454**, to authorize fiscal 2011 appropriations for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year.

Entered a motion to close further debate on the motion to proceed to consideration of the bill, and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, and pursuant to the unanimous-consent agreement of Sept. 16, 2010, a vote on cloture will occur on Sept. 21, 2010, at 2:15 p.m., and that on Sept. 21, the Senate resume consideration of the motion to proceed to consideration of the bill following a period of morning business, with the time until 12:30 p.m., equally divided and controlled between Levin and McCain, or their designees.

Reached a unanimous-consent agreement providing that the Senate resume consideration of the motion to proceed to consideration of the bill on Sept. 20, 2010, at approximately 3 p.m.

Received a message from the president of the United States transmitting, pursuant to law, a report on the continuation of the national emergency with respect to persons who commit, threaten to commit, or support terrorism that was established in Executive Order No. 13224 on Sept. 21, 2006; which was referred to Banking.

Received the following nominations:

- George Albert Krol, of New Jersey, to be ambassador to the Republic of Uzbekistan;
- Charles M. Oberly III, of Delaware, to be U.S. attorney for the District of Delaware for the term of four years;
- 2 Army nominations in the rank of general; and
- routine lists in the Air Force, Army, and Navy.

Reports Filed

Sept. 16

H.R. 3980, to provide for identifying and eliminating redundant reporting requirements and developing meaningful performance metrics for homeland security preparedness grants, with an amendment in the nature of a substitute (S. Rept. No. 111-291).

S. 2739, to amend the Federal Water Pollution Control Act to provide for the establishment of the Puget Sound Program Office, with an amendment (S. Rept. No. 111-292).

H.R. 4715, to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program, with an amendment in the nature of a substitute (S. Rept. No. 111-293).

S. 3799, making fiscal 2011 appropriations for the Legislative Branch (S. Rept. No. 111-294).

S. 3800, making fiscal 2011 appropriations for the Department of Defense (S. Rept. No. 111-295).

S. 3717, to amend the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940 to provide for certain disclosures under section 552 of title 5, U.S. Code (commonly referred to as the Freedom of Information Act).

Bills & Resolutions Introduced

Sept. 16

(TAX POLICY) BAUCUS: S. 3793, to extend expiring provisions and for other purposes; read the first time.

(GOVERNMENT OPERATIONS) LEAHY and COLLINS: S. 3794, to amend chapter 5 of title 40, U.S. Code, to include organizations whose membership comprises substantially veterans as recipient organizations for the donation of federal surplus personal property through state agencies; to Homeland Security & Governmental Affairs.

(TAX POLICY) CARPER and others: S. 3795, to amend the Internal Revenue Code of 1986 to reduce the tax gap, and for other purposes; to Finance.

(HEALTH CARE) BAYH: S. 3796, to establish community health improvement councils and state health improvement technical assistance center grants; to Health, Education, Labor, & Pensions.

(INTERNATIONAL AFFAIRS) GILLIBRAND: S. 3797, to amend the Foreign Assistance Act of 1961 to provide assistance for developing countries to promote quality basic education and to establish the achievement of quality universal basic education in all developing countries as an objective of U.S. foreign assistance policy, and for other purposes; to Foreign Relations.

(INTERNATIONAL AFFAIRS) LEAHY and BROWNBACK: S. 3798, to authorize appropriations of U.S. assistance to help eliminate conditions in foreign prisons and other detention facilities that do not meet minimum human standards of health, sanitation, and safety, and for other purposes; to Foreign Relations.

(APPROPRIATIONS) NELSON (Neb.): S. 3799, making fiscal 2011 appropriations for the Legislative Branch, and for other purposes; from Appropriations; placed on the calendar.

(APPROPRIATIONS) INOUYE: S. 3800, making fiscal 2011 appropriations for the Department of Defense,

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and for other purposes; from Appropriations; placed on the calendar.

(HEALTH CARE) AKAKA: S. 3801, to amend title 38, U.S. Code, to increase the maximum age for children eligible for medical care under the CHAMPVA program, and for other purposes; to Veterans' Affairs.

(EDUCATION) NELSON (Fla.) and LEMIEUX: S. Res. 626, acknowledging and congratulating Miami Dade College on the occasion of its 50th anniversary of service to the students and residents of Florida; to Judiciary.

(GOVERNMENT OPERATIONS) SNOWE and others: S. Res. 627, designating Sept. 16, 2010, as ''The American Legion Day''; considered and agreed to.

(GOVERNMENT OPERATIONS) SCHUMER and BENNETT: S. Res. 628, recognizing the 10th anniversary of the National Book Festival; considered and agreed to.

(GOVERNMENT OPERATIONS) MENENDEZ and others: S. Res. 629, recognizing Hispanic Heritage Month and celebrating the heritage and culture of Latinos in the United States and their immense contributions to the Nation; considered and agreed to.

Committee Action

Area code for all telephone numbers is 202 unless otherwise stated.

Location Key:
(Times and locations are subject to change.)
S—Senate side of U.S. Capitol Building
SC—Senate side of U.S. Capitol Building
SD—Senate Dirksen Office Building
SH—Senate Hart Office Building
SR—Senate Russell Office Building
SVC—Senate side of Capitol Visitor Center

Sept. 17

COMMERCE, full committee announced a Sept. 23 hearing on the need for a nationwide public safety network; 10 a.m., SR-253; contact 224-0411.

FINANCE, full committee announced a Sept. 23 hearing on tax reform, focusing on lessons from the Tax Reform Act of 1986; 10 a.m., SD-215; contact 224-4515.

Committee Meetings Scheduled

Sept. 20-24

ARMED SERVICES, Sept. 21, full committee to hold a hearing on the nomination of Gen. James F. Amos, USMC, for reappointment to the grade of general and to be commandant of the Marine Corps; 9:30 a.m., SD-G50; contact 224-3871.

BANKING, Sept. 21, full committee to hold a hearing on investigating infrastructure, focusing on creating jobs and growing the economy; 10 a.m., SD-538; contact 224-7391;

Sept. 22, full committee to hold an oversight hearing on the Securities and Exchange inspector general's report on the investigation of the SEC's response to concerns regarding Robert Allen Stanford's alleged ponzi scheme and improving SEC performance; 10 a.m., SD-538; contact 224-7391;

Sept. 22, full committee to hold a hearing on reauthorization of the National Flood Insurance Program; 2 p.m., SD-538; contact 224-7391;

Sept. 23, full committee to hold a hearing on the Federal Housing Administration, focusing on current condition and future challenges; 10 a.m., SD-538; contact 224-7391.

BUDGET, Sept. 22, full committee to hold a hearing on assessing the federal policy response to the economic crisis; 10 a.m., SD-608; contact 224-0642.

COMMERCE, Sept. 22, Consumer Protection Subcommittee to hold a hearing on S. 3742, to protect consumers by requiring reasonable security policies and procedures to protect data containing personal information, and to provide for nationwide notice in the event of a security breach; 2:30 p.m., SR-253; contact 224-0411;

Sept. 23, full committee to hold a hearing on the need for a nationwide public safety network; 10 a.m., SR-253; contact 224-0411.

ENERGY, Sept. 23, full committee to hold a hearing on the Department of Energy's Loan Guarantee Program and its effectiveness in spurring the near-term deployment of clean energy technology; 9:30 a.m., SD-366; contact 224-4971.

FINANCE, Sept. 21, full committee to hold a hearing on welfare reform, focusing on women and poverty; 10 a.m., SD-215; contact 224-4515;

Sept. 22, full committee to hold a hearing on tax and fiscal policy, focusing on the effects on the military and veterans community; 10 a.m., SD-215; contact 224-4515;

Sept. 23, full committee to hold a hearing on tax reform, focusing on lessons from the Tax Reform Act of 1986; 10 a.m., SD-215; contact 224-4515.

FOREIGN RELATIONS, Sept. 21, full committee to mark up the following legislation: S. 3581, to implement certain defense trade treaties; S. 1183, to authorize the secretary of agriculture to provide assistance to the government of Haiti to end within five years the deforestation in Haiti and restore within 30 years the extent of tropical forest cover in existence in Haiti in 1990; S. 3184, to provide U.S. assistance for the purpose of eradicating severe forms of trafficking in children in eligible countries through the implementation of Child Protection Compacts; S. 3665, to promote the strengthening of the private sector in Pakistan; S. 3297, to update U.S. policy and authorities to help advance a genuine transition to democracy and to promote recovery in Zimbabwe; S. 987, to protect girls in developing countries through the prevention of child marriage; and S. Res. 573, urging the development of a comprehensive strategy to ensure stability in Somalia; and to consider the following treaties: Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, done at Sydney, Sept. 5, 2007 (T. Doc. No. 110-10); and Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning De-

LEGISLATIVE CALENDAR

Continued from previous page

fense Trade Cooperation, done at Washington and London on June 21 and 26, 2007 (T. Doc. No. 110-07); and to consider the following nominations: Alexander A. Arvizu, of Virginia, to be ambassador to the Republic of Albania; Matthew J. Bryza, of Illinois, to be ambassador to the Republic of Azerbaijan; Norman L. Eisen, of the District of Columbia, to be ambassador to the Czech Republic; Joseph A. Mussomeli, of Virginia, to be ambassador to the Republic of Slovenia; and Duane E. Woerth, of Nebraska, for the rank of ambassador during his tenure of service as U.S. representative on the Council of the International Civil Aviation Organization; 2:15 p.m., S-116; contact 224-4651;

Sept. 22, full committee to hold a hearing on the following nominations: Mark M. Boulware, of Texas, to be ambassador to the Republic of Chad; Jo Ellen Powell, of Maryland, to be ambassador to the Islamic Republic of Mauritania; Christopher J. McMullen, of Virginia, to be ambassador to the Republic of Angola; and Wanda L. Nesbitt, of Pennsylvania, to be ambassador to the Republic of Namibia; 10 a.m., SD-419; contact 224-4651;

Sept. 22, full committee to hold a hearing on the following nominations: Donald Kenneth Steinberg, of California, to be deputy administrator of the U.S. Agency for International Development; and Nancy E. Lindborg, of the District of Columbia, to be an assistant administrator of the U.S. Agency for International Development; 11 a.m., SD-419; contact 224-4651;

Sept. 22, full committee to hold a hearing on the following nominations: Kristie Anne Kenney, of Virginia, to be ambassador to the Kingdom of Thailand; and Karen Brevard Stewart, of Florida, to be ambassador to the Lao People's Democratic Republic; 3 p.m., SD-419; contact 224-4651.

HOMELAND SECURITY & GOVERNMENTAL AFFAIRS, Sept. 21, full committee to consider the nomination of Jacob J. Lew, of New York, to be director of the Office of Management and Budget; 9:15 a.m., SD-342; contact 224-2627;

Sept. 21, full committee to hold a hearing on the nomination of Maria Elizabeth Raffinan, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia; 2:30 p.m., SD-342; contact 224-2627;

Sept. 22, full committee to hold a hearing on nine years after 9/11, focusing on confronting the terrorist threat to the homeland; 10 a.m., SD-342; contact 224-2627.

JUDICIARY, Sept. 22, full committee to hold a hearing on the Electronic Communications Privacy Act, focusing on promoting security and protecting privacy in the digital age; 10 a.m., SD-226; contact 224-7703;

Sept. 22, full committee to hold a hearing on investigating and prosecuting financial fraud after the Fraud Enforcement and Recovery Act; 2 p.m., SD-226; contact 224-7703;

Sept. 23, full committee to mark up the following legislation: S. 3675, to amend chapter 11 of title 11, U.S. Code, to address reorganization of small businesses; S. 2888, to amend section 205 of title 18, U.S. Code, to exempt qualifying law school students participating in legal clinics from the application of the general conflict of interest rules under such section; and S. 3767, to establish appropriate criminal penalties for certain knowing violations relating to food that is misbranded or adulterated; and to consider the following nominations: Kathleen M. O'Malley, of Ohio, to be a U.S. circuit judge for the Federal Circuit; Beryl Alaine Howell, of the District of Columbia, to be a U.S. district judge for the District of Columbia; Robert Leon Wilkins, of the District of Columbia, to be a U.S. district judge for the District of Columbia; Edward Milton Chen, of California, to be a U.S. district judge for the Northern District of California; Louis B. Butler Jr., of Wisconsin, to be a U.S. district judge for the Western District of Wisconsin; John J. McConnell Jr., of Rhode Island, to be a U.S. district judge for the District of Rhode Island; Goodwin Liu, of California, to be a U.S. circuit judge for the Ninth Circuit; and Robert Neil Chatigny, of Connecticut, to be a U.S. circuit judge for the Second Circuit; 10 a.m., SD-226; contact 224-7703.

RULES, Sept. 22, full committee to hold a hearing on the filibuster, focusing on legislative proposals to change Senate procedures, including S. Res. 416, amending the Standing Rules of the Senate to provide for cloture to be invoked with less than a three-fifths majority after additional debate; and S. Res. 619, expressing the sense of the Senate that the Senate of each new Congress is not bound by the Rules of previous Senates; 10 a.m., SR-301; contact 224-6352.

VETERANS' AFFAIRS, Sept. 22, full committee to hold a hearing on a legislative presentation focusing on the American Legion; 10 a.m., 345 CHOB; contact 224-9126;

Sept. 23, full committee to hold an oversight hearing to examine Veterans' Affairs disability compensation, focusing on presumptive disability decisionmaking; 9:30 a.m., SD-G50; contact 224-9126.

SELECT INTELLIGENCE, Sept. 21, full committee to hold a hearing on the nomination of David B. Buckley, of Virginia, to be inspector general of the Central Intelligence Agency; 2:30 p.m., SD-124; contact 224-1700;

Sept. 23, full committee to hold a closed hearing on certain intelligence matters; 2:30 p.m., SH-219; contact 224-1700.

IMPEACHMENT TRIAL COMMITTEE, Sept. 21, full committee to continue hearings on the articles of impeachment against Judge G. Thomas Porteous Jr., a U.S. district judge for the Eastern District of Louisiana; 8 a.m., SH-216; contact 228-6263;

Sept. 22, full committee to continue hearings on the articles of impeachment against Judge G. Thomas Porteous Jr., a U.S. district judge for the Eastern District of Louisiana; 8 a.m., SH-216; contact 228-6263.

HOUSE

Floor Action

Sept. 17

Did not meet.

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To reconvene Sept. 20 at 2:30 p.m. for a pro forma session; no legislative business is scheduled.

The Government Accountability Office did not release any new publications today.

GAO products are available at http://www.gao.gov.

Reports Filed

Sept. 16

H.R. 5194, to designate Mt. Andrea Lawrence, and for other purposes (H. Rept. No. 111-595).

H.R. 5131, to establish Coltsville National Historical Park in Connecticut, and for other purposes, with an amendment (H. Rept. No. 111-596).

H.R. 3785, to authorize the secretary of the interior to conduct a study of the suitability and feasibility of expanding the boundary of Chattahoochee River National Recreation Area (H. Rept. No. 111-597).

H.R. 5110, to modify the boundary of the Casa Grande Ruins National Monument, and for other purposes, with an amendment (H. Rept. No. 111-598).

H.R. 4823, to establish the Sedona-Red Rock National Scenic Area in the Coconino National Forest in Arizona, and for other purposes, with an amendment (H. Rept. No. 111-599).

H.R. 3914, to designate certain lands in San Miguel, Ouray, and San Juan counties in Colorado, as wilderness, and for other purposes, with an amendment (H. Rept. No. 111-600).

H.R. 5388, to expand the boundaries of the Cibola National Forest in New Mexico, with an amendment (H. Rept. No. 111-601).

H.R. 4195, to authorize the Peace Corps Commemorative Foundation to establish a commemorative work in the District of Columbia and its environs, and for other purposes, with an amendment (H. Rept. No. 111-602).

H.R. 4347, to amend the Indian Self-Determination and Education Assistance Act to provide further self-governance by Indian tribes, and for other purposes, with an amendment (H. Rept. No. 111-603).

H.R. 4888, to revise the Forest Service Recreation Residence Program as it applies to units of the National Forest System derived from the public domain by implementing a simple, equitable, and predictable procedure for determining cabin user fees, and for other purposes, with an amendment (H. Rept. No. 111-604).

H.R. 5494, to direct the director of the National Park Service and the secretary of the interior to transfer certain properties to the District of Columbia, with amendments (H. Rept. No. 111-605).

H.R. 5152, to adjust the boundary of the Kennesaw Mountain National Battlefield Park to include the Wallis House and Harriston Hill, and for other purposes (H. Rept. No. 111-606).

H.R. 1745, to amend the Public Health Service Act to provide liability protections for volunteer practitioners at health centers under section 330 of such law, with an amendment (H. Rept. No. 111-607).

H.R. 3199, to amend the Public Health Service Act to provide grants to state emergency medical service departments to provide for the expedited training and licensing of veterans with prior medical training, and for other purposes, with an amendment (H. Rept. No. 111-608).

H.R. 3470, to authorize funding for the creation and implementation of infant mortality pilot programs in standard metropolitan statistical areas with high rates of infant mortality, and for other purposes, with an amendment (H. Rept. No. 111-609).

Bills & Resolutions Introduced

Sept. 16

(ENERGY) BARTON (Texas) and others: H.R. 6144, to repeal certain amendments to the Energy Policy and Conservation Act with respect to lighting energy efficiency; jointly to Energy & Commerce and Transportation.

(CONGRESS) CHAFFETZ: H.R. 6145, to require members of Congress to disclose delinquent tax liability, require an ethics inquiry, and garnish the wages of a member with federal tax liability; jointly to House Administration and Rules.

(VETERANS' BENEFITS) GIFFORDS: H.R. 6146, to amend title 38, U.S. Code, to make permanent home loan guaranty programs for veterans regarding adjustable rate mortgages and hybrid adjustable rate mortgages; to Veterans' Affairs.

(MEDICARE) SCHAKOWSKY and McCARTHY (N.Y.): H.R. 6147, to amend title XVIII of the Social Security Act to provide for treatment of clinical psychologists as physicians for purposes of furnishing clinical psychologist services under the Medicare program; jointly to Energy & Commerce and Ways & Means.

(INTERNATIONAL AFFAIRS) ROS-LEHTINEN: H.R. 6148, to combat trafficking in human organs, and for other purposes; to Foreign Affairs.

(GOVERNMENT OPERATIONS) WEINER: H.R. 6149, to require disclosures to consumers by coin and precious metal bullion dealers; to Energy & Commerce.

(TRANSPORTATION) GALLEGLY and others: H.R. 6150, to amend the limitation on liability for certain passenger rail accidents or incidents under section 28103 of title 49, U.S. Code, and for other purposes; jointly to Transportation and Judiciary.

(GOVERNMENT OPERATIONS) BRADY (Pa.) and others: H.R. 6151, to charter an organization and establish a medal program to honor first responders in Philadelphia, Pa.; to Judiciary.

(EMPLOYMENT TAXES) BRALEY (Iowa): H.R. 6152, to amend the Internal Revenue Code of 1986 to extend the exemption from employer Social Security taxes with respect to previously unemployed individuals, and to extend the credit for the retention of such individuals; to Ways & Means.

(INTERNATIONAL AFFAIRS) DELAHUNT and PITTS: H.R. 6153, to authorize appropriations of U.S. assistance to help eliminate conditions in foreign prisons and other detention facilities that do not meet mini-

mum humane standards of health, sanitation, and safety, and for other purposes; jointly to Foreign Affairs and Judiciary.

(VETERANS' BENEFITS) FILNER: H.R. 6154, to amend title 38, U.S. Code, to clarify the eligibility of certain veterans who serve in support of Operation New Dawn for hospital care, medical services, and nursing home care provided by the Department of Veterans Affairs; to Veterans' Affairs.

(PUBLIC LANDS) GRIJALVA: H.R. 6155, to expand the Pajarita Wilderness and designate the Tumacacori Highlands Wilderness in Coronado National Forest in Arizona, and for other purposes; to Natural Resources.

(DEPENDENT CARE) McDERMOTT and LINDER: H.R. 6156, to renew the authority of the secretary of health and human services to approve demonstration projects designed to test innovative strategies in state child welfare programs; to Ways & Means.

(INTERNATIONAL AFFAIRS) LEE (Calif.) and others: H. Con. Res. 318, supporting the ideals and objectives of the United Nations Millennium Declaration and related Millennium Development Goals and calling on the president to ensure the United States contributes meaningfully to the achievement of the Millennium Development Goals by 2015; to Foreign Affairs.

(EMPLOYMENT) WU: H. Res. 1627, recognizing the 110th anniversary of the Northwest Labor Press; to Oversight & Government Reform.

(TAX CREDITS) KILDEE: H. Res. 1628, expressing the sense of the House with respect to efforts to extend the health coverage tax credit to provide access to affordable health care for Delphi retirees and other eligible individuals; to Ways & Means.

(DEFENSE) SHIMKUS and others: H. Res. 1629, honoring the service and accomplishments of Colonel Steve Buyer, U.S. Army Reserve, on the occasion of his retirement from the Army Reserve; to House Administration.

(DEFENSE) LIPINSKI and others: H. Res. 1630, expressing support for National POW/MIA Recognition Day; to Armed Services.

(INTERNATIONAL AFFAIRS) BILIRAKIS and others: H. Res. 1631, calling for the protection of religious sites and artifacts from and in Turkish-occupied areas of northern Cyprus as well as for general respect for religious freedom; to Foreign Affairs.

(CONGRESS) CONAWAY: H. Res. 1632, amending the Rules of the House to require officers and employees of the House to read the U.S. Constitution each year; to Rules.

(EDUCATION) LOWEY and others: H. Res. 1633, supporting the goals and ideals of ''Lights On Afterschool!'', a national celebration of after-school programs; to Education & Labor.

(INDIAN AFFAIRS) LUJAN: H. Res. 1634, congratulating Taos Pueblo, its leaders and its people, on the 40th anniversary of the return of their sacred Blue Lake lands; to Natural Resources.

(GOVERNMENT OPERATIONS) MURPHY (N.Y.): H. Res. 1635, supporting the goals and ideals of an annual ''National Yellow Ribbon Day''; to Oversight & Government Reform.

(INFRASTRUCTURE) NAPOLITANO and others: H. Res. 1636, celebrating the 75th anniversary of the Hoover Dam; to Natural Resources.

(CRIME) POE (Texas) and others: H. Res. 1637, supporting the goals and ideals of National Domestic Violence Awareness Month 2010 and expressing the sense of the House that Congress should continue to raise awareness of domestic violence in the United States and its devastating effects on families and communities, and support programs and practices designed to prevent and end domestic violence; to Education & Labor.

Committee Action

Area code for all telephone numbers is 202 unless otherwise stated.

Location Key:
(Times and locations are subject to change.)
H—House side of U.S. Capitol Building
HC—House side of U.S. Capitol Building
HT—House Terrace
H2—Ford House Office Building
HVC—House side of Capitol Visitor Center
RHOB—Rayburn House Office Building
LHOB—Longworth House Office Building
CHOB—Cannon House Office Building

Sept. 17

HOUSE ADMINISTRATION, full committee announced a Sept. 23 meeting to mark up H.R. 6116, to reform the financing of House elections; 11 a.m., 1310 LHOB; contact 225-2061.

TRANSPORTATION, full committee announced a Sept. 22 hearing on residential through-the-fence agreements at public airports; 10 a.m., 2167 RHOB; contact 225-4472.

Committee Meetings Scheduled

Sept. 20-24

ARMED SERVICES, Sept. 22, Oversight Subcommittee to hold a hearing on Department of Defense oversight of tuition assistance used for distance learning and for-profit colleges; 8 a.m., 2212 RHOB; contact 226-4532;

Sept. 23, full committee to hold a hearing on U.S. Cyber Command, focusing on organizing for cyberspace operations; 10 a.m., 2118 RHOB; contact 225-4151;

Sept. 23, Terrorism Subcommittee to hold a hearing on organizing the military departments for cyber operations; 2 p.m., 2212 RHOB; contact 226-2843.

BUDGET, Sept. 22, full committee to hold a hearing on budgeting for education, focusing on Perkins loans; 2 p.m., 210 CHOB; contact 226-7200.

EDUCATION & LABOR, Sept. 23, full committee to hold a hearing on the Protecting Student Athletes From Concussions Act; 10 a.m., 2175 RHOB; contact 225-3725.

ENERGY & COMMERCE, Sept. 21, Health Subcommittee to hold a hearing on cutting waste, fraud, and abuse

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in Medicare and Medicaid; 2 p.m., 2322 RHOB; contact 225-2927;

Sept. 21, Oversight Subcommittee to hold a hearing on the outbreak of salmonella in eggs; noon, 2123 RHOB; contact 225-2927;

Sept. 23, Commerce Subcommittee to hold a hearing on the Precious Coins and Bullion Disclosure Act; 10 a.m., 2322 RHOB; contact 225-2927.

FINANCIAL SERVICES, Sept. 22, full committee to hold a hearing on the implementation of higher Federal Housing Administration loan fees and pending legislative proposals to strengthen the FHA MMIF fund and improve lender oversight; 10 a.m., 2128 RHOB; contact 225-4247;

Sept. 22, full committee to hold a hearing on the state of the international financial system, including international regulatory issues relevant to the implementation of the Dodd-Frank financial reform law; 2 p.m., 2128 RHOB; contact 225-4247;

Sept. 23, full committee to hold a hearing on the Livable Communities Act of 2010; 2:30 p.m., 2128 RHOB; contact 225-4247;

Sept. 23, Capital Markets Subcommittee to hold a hearing on assessing the limitations of the Securities Investor Protection Act; 10 a.m., 2128 RHOB; contact 225-4247;

Sept. 23, Financial Institutions Subcommittee to hold a hearing on H.R. 3149, to amend the Fair Credit Reporting Act to prohibit the use of consumer credit checks against prospective and current employees for the purposes of making adverse employment decisions; 10 a.m., 2220 RHOB; contact 225-4247.

FOREIGN AFFAIRS, Sept. 22, full committee to hold a hearing on nuclear cooperation and non-proliferation, focusing on Iran; 10 a.m., 2172 RHOB; contact 225-5021;

Sept. 22, Asia Subcommittee to hold a hearing on renegotiating the South Pacific Tuna Treaty, focusing on shutting down loopholes and protecting U.S. interests; 1:30 p.m., 2172 RHOB; contact 226-7825;

Sept. 22, Asia Subcommittee to hold a hearing on crimes against humanity in West Papua; 3 p.m., 2172 RHOB; contact 226-7825.

HOMELAND SECURITY, Sept. 22, full committee to hold a hearing on preliminary lessons from Deepwater Horizon; 10 a.m., 311 CHOB; contact 226-2616.

HOUSE ADMINISTRATION, Sept. 23, full committee to mark up H.R. 6116, to reform the financing of House elections; 11 a.m., 1310 LHOB; contact 225-2061.

JUDICIARY, Sept. 22, Commercial & Administrative Law Subcommittee to hold a hearing on H.R. 4596, to allow for enforcement of state disclosure laws and access to courts for covered Holocaust-era insurance policy claims; 11:30 a.m., 2141 RHOB; contact 226-7680;

Sept. 23, Constitution Subcommittee to hold a hearing on the Electronic Communications Privacy Act (ECPA) and the revolution in cloud computing; 11 a.m., 2141 RHOB; contact 225-2825.

NATURAL RESOURCES, Sept. 23, Energy Subcommittee to hold a hearing on H.R. 4817, to amend the Surface Mining Control and Reclamation Act of 1977 to clarify that uncertified states and Indian tribes have the authority to use certain payments for certain noncoal reclamation projects; 10 a.m., 1334 LHOB; contact 225-9297;

Sept. 23, National Parks Subcommittee to hold an oversight hearing on the role of partnerships in national parks; 10 a.m., 1324 LHOB; contact 226-7736.

OVERSIGHT & GOVERNMENT REFORM, Sept. 22, Government Management Subcommittee to hold a hearing on minority contracting, focusing on opportunities and challenges for current and future minority-owned businesses, focusing on H.R. 4343, to establish in the Department of Commerce the Minority Business Development Program to provide qualified minority businesses with technical assistance, loan guarantees, and contracting opportunities; 9 a.m., 2203 RHOB; contact 225-3741;

Sept. 22, National Security Subcommittee to hold a hearing on manufacturing policy, the Defense Industrial Base, and U.S. National Security; HVC-210; contact 225-2548;

Sept. 23, full committee to hold a hearing on transition in Iraq; 10 a.m., HVC-210; contact 225-5051;

Sept. 23, Federal Workforce Subcommittee to hold a hearing on the Washington Metropolitan Area Transit Authority; 2 p.m., 2203 RHOB; contact 225-5147.

SCIENCE, Sept. 23, full committee to mark up the following legislation: H.R. 5866, to amend the Energy Policy Act of 2005 requiring the secretary of energy to carry out initiatives to advance innovation in nuclear energy technologies, to make nuclear energy systems more competitive, to increase efficiency and safety of civilian nuclear power; and the Rare Earths and Critical Materials Revitalization Act of 2010; 10 a.m., 2318 RHOB; contact 225-6375;

Sept. 23, Research Subcommittee to hold a hearing on science and innovation policy; 10 a.m., 2318 RHOB; contact 225-9662;

Sept. 23, Technology Subcommittee to hold a hearing on furthering interoperability and competition for public safety radio equipment; 2 p.m., 2318 RHOB; contact 225-9662.

TRANSPORTATION, Sept. 22, full committee to hold a hearing on residential through-the-fence agreements at public airports; 10 a.m., 2167 RHOB; contact 225-4472;

Sept. 22, Economic Development Subcommittee to hold a hearing on Hurricane Katrina, focusing on recovery and lessons learned for future disasters; 2 p.m., 2167 RHOB; contact 225-9961.

VETERANS' AFFAIRS, Sept. 23, Health Subcommittee to hold a hearing on Veterans Health Administration contracting and procurement practices; 10 a.m., 334 CHOB; contact 225-9154.

SELECT ENERGY INDEPENDENCE, Sept. 22, full committee to hold a hearing on the global clean energy race; 9:30 a.m., 2325 RHOB; contact 225-4012.

JOINT/CONFERENCE COMMITTEES

Committee Action

Sept. 17

NONE.

Committee Meetings Scheduled

Sept. 20-24

NONE.

PRESIDENT'S CALENDAR

White House Announcements

Sept. 17

President Obama announced the appointment of Elizabeth Warren to be assistant to the President and a special advisor to the secretary of the Treasury on the Consumer Financial Protection Bureau.

Sept. 16

President Obama sent the following nominations to the Senate:

George Albert Krol, of New Jersey, to be ambassador to the Republic of Uzbekistan; and

Charles M. Oberly, III, of Delaware, to be U.S. attorney for the District of Delaware for the term of four years, vice Colm F. Connolly.

The president announced his intent to appoint the following individuals to key administration posts:

Sefa Aina to be a member of the President's Advisory Commission on Asian Americans and Pacific Islanders;

Debra T. Cabrera to be a member of the President's Advisory Commission on Asian Americans and Pacific Islanders;

Kamuela J. N. Enos to be a member of the President's Advisory Commission on Asian Americans and Pacific Islanders;

Frances Eneski Francis to be a member of the President's Advisory Commission on Asian Americans and Pacific Islanders;

Farooq Kathwari to be a member of the President's Advisory Commission on Asian Americans and Pacific Islanders;

Hyeok Kim to be a member of the President's Advisory Commission on Asian Americans and Pacific Islanders;

Ramey Ko to be a member of the President's Advisory Commission on Asian Americans and Pacific Islanders;

Rozita Villanueva Lee to be a member of the President's Advisory Commission on Asian Americans and Pacific Islanders;

Sunil Puri to be a member of the President's Advisory Commission on Asian Americans and Pacific Islanders;

Amardeep Singh to be a member of the President's Advisory Commission on Asian Americans and Pacific Islanders;

Unmi Song to be a member of the President's Advisory Commission on Asian Americans and Pacific Islanders;

Dilawar A. Syed to be a member of the President's Advisory Commission on Asian Americans and Pacific Islanders;

Khampha Thephavong to be a member of the President's Advisory Commission on Asian Americans and Pacific Islanders;

Doua Thor to be a member of the President's Advisory Commission on Asian Americans and Pacific Islanders;

Hector L. Vargas Jr. to be a member of the President's Advisory Commission on Asian Americans and Pacific Islanders;

Hines Ward to be a member of the President's Advisory Commission on Asian Americans and Pacific Islanders;

Admiral John B. Nathman, USN (Ret.), to be a member of the Board of Visitors to the United States Naval Academy; and

Lieutenant General Frank E. Petersen, USMC (Ret.), to be a member of the Board of Visitors to the United States Naval Academy.

The President's Appointments

Sept. 17

President Obama made an announcement to the press at the White House.

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Journal

September

COD Income Deferral: Analysis of New Section 108(i) Regulations for Partnerships and S Corporations; Sept. 27; Washington; D.C. Bar Taxation Section; (202) 626-3463; http://www.dcbar.org.

10th Annual New York International Film & TV Finance Summit; Sept. 27-28; New York; BNA Tax and Accounting/ ATLAS; (914) 328-5656; http://www.citeusa.org.

U.S. Tax Aspects of International Shipping; Sept. 27-28; Washington, D.C.; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

2010 New York International Film & TV Finance Summit; Sept. 27-28; New York City; BNA Tax and Accounting/ ATLAS; (914) 328-5656; 800-207-4432; http:// www.citeusa.org.

U.S. Withholding Tax 2010: Compliance for Financial Institutions and Disclosure for Investors; Sept. 27-29; London; IBC Global; +44(0)20 7017 7790; e-mail kmregistration@informa.com; http://www.ibc-events.com.

45th Annual Southern Federal Tax Institute; Sept. 27-Oct. 1; Atlanta; Southern Federal Tax Institute; (770) 640-8300; http://sfti.org.

Immigration Issues for Accounts Payable and Tax Professionals; Sept. 28; webinar; BNA; 800-372-1033, menu option 6; http://www.bna.com.

Tax Ownership Issues: Three Recent Cases Emerge, but Has Anything Really Changed?; Sept. 28; Washington; D.C. Bar Taxation Section; (202) 626-3463; http:// www.dcbar.org.

Challenge of the 2010 Estate Tax Legislative Impasse; Sept. 29; Washington; D.C. Bar Taxation Section; (202) 626-3463; http://www.dcbar.org.

Codification of the Economic Substance Doctrine: Issues, Uncertainties, and Application; Sept. 29; webinar; BNA; 800-372-1033, menu option 6; http://www.bna.com.

Political Activities of Tax-Exempt Organizations this Election Cycle; Sept. 29; Washington; D.C. Bar Taxation Section; (202) 626-3463; http://www.dcbar.org.

Pre-Conference Workshop: LIHTC Basics for the 17th Annual Affordable Housing Tax Credit Conference; Sept. 29; San Francisco; Novogradac & Co.; (415) 356-7970; http://www.novoco.com/events/.

16th Annual Affordable Housing Tax Credit Conference; Sept. 29-Oct. 1; San Francisco; Novogradac & Co.; (415) 356-7970; http://www.novoco.com/events/.

17th Annual Affordable Housing Tax Credit Conference; Sept. 30-Oct. 1; San Francisco; Novogradac & Co.; (415) 356-7970; http://www.novoco.com/events/.

Consolidated Tax Return Regulations; Sept. 30-Oct. 1; Washington, D.C.; American Law Institute-American Bar Association; 800-CLE-NEWS; http://www.ali-aba.org.

October

Tax Accounting (FAS #109) Primer: Debits, Credits and Worksheets; Oct. 4-5; Houston; BNA Tax and Accounting/CITE; (914) 328-5656; http:// www.citeusa.org.

U. S. International Tax Reporting & Compliance; Oct. 4-5; Houston; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

*****New***** **IFX Forum Face-to-Face Meeting;** Oct. 4-7; Cincinnati; Interactive Financial Exchange Forum; http:// ifxforum.org.

Tax Issues for Healthcare Organizations; Oct. 11-12; Arlington, Va.; American Health Lawyers Association; 202-833-1100, prompt #2; http://healthlawyers.org/ programs.

U.S. International Transfer Pricing 101; Oct. 11-12; Chicago; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

16th Annual Canada-U.S. Cross-Border Tax Update; Oct. 18-19; Toronto; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

9th Annual Canada-U.S. Transfer Pricing Symposium; Oct. 20; Toronto; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

New Markets Tax Credit Investors Conference; Oct. 20-21; Chicago; Novogradac & Co.; (415) 356-7970; http:// www.novoco.com/events/.

New Markets Tax Credit Conference; Oct. 20-22; Chicago; Novogradac & Co.; (415) 356-7970; http:// www.novoco.com/events/.

Tax Strategies for Corporate Acquisitions, Dispositions, Spin-Offs, Joint Ventures, Financings, Reorganizations and Restructurings 2010; Oct. 20-22; New York City; Practising Law Institute; 800-260-4PLI; http://www.pli.edu.

Fundamentals of Treasury Management; Oct. 21-22; London; International Accounting Standards Committee Foundation; +44(0)20 7017 7790; e-mail, experts@iir-conferences.com; http://www.iir-events.com/ifrs.

Tax Exempt Charitable Organizations; Oct. 21-22; Washington, D.C.; American Law Institute-American Bar Association; 800-CLE-NEWS; http://www.ali-aba.org.

9th Annual Conference on Taxation of Mergers and Acquisitions; Oct. 25-26; Chicago; BNA Tax and Accounting/ CITE; (914) 328-5656; http://www.citeusa.org.

Introduction to U.S. International Tax; Oct. 25-26; Chicago; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

Taxation of Mergers & Acquisitions; Oct. 25-26; Chicago; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

U.S. Taxation of Intellectual Property;Oct. 25-26; Chicago; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

21st Annual Philadelphia Tax Conference; Oct. 26-27; Philadelphia; American Bar Association Section of Taxation; 202-662-8670; e-mail taxmeetings@abanet.org; http://www.abanet.org/tax.

35th Bond Attorneys' Workshop; Oct. 27-29; San Antonio; National Association of Bond Lawyers; (312) 648-9590; http://www.nabl.org.

Intermediate U.S. International Tax Update; Oct. 27-29; Chicago; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

U. S. International Tax Planning; Oct. 27-29; Chicago; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

Conference on Life Insurance Company Products; Oct. 28-29; Washington, D.C.; American Law Institute-American Bar Association; 800-CLE-NEWS; http://www.ali-aba.org.

November

Meet the Experts; Nov. 1-2; London; International Accounting Standards Committee Foundation; +44 (0) 20 7017 7484; e-mail experts@iir-conferences.com; http://www.meet-the-experts.org.

5th Annual Pharmaceutical/Biotech Tax and Transfer Pricing Congress: Strategies for Tax Optimization, IRS Compliance and Transfer Pricing Planning; Nov. 3-4; Philadelphia; Center for Business Intelligence; 800-817-8601; (339) 298-2100; http://www.cbinet.com.

Fall Meeting & Education Conference; Nov. 3-7; Chicago; American Association of Attorney-Certified Public Accountants; 888-288-9272; http://www.attorney-cpa.com.

ESOP Association Conference; Nov. 4-5; Las Vegas; ESOP Association; (978) 779-0199; e-mail: meetings@esopassociation.org.

*****New***** **2010 California Tax Policy Conference; Annual Meeting of California Tax Bar;** Nov. 4-6; Coronado, Calif.; Taxation Section of the State Bar of California; (415) 538-2508; http://taxation.calbar.ca.gov.

Creative Tax Planning for Real Estate Transactions; Nov. 4-6; Washington, D.C.; American Law Institute-American Bar Association; 800-CLE-NEWS; http://www.ali-aba.org.

Canadian Payroll: Year-End and New Year Updates; Nov. 6; webinar; BNA; 800-372-1033, menu option 6; http://www.bna.com.

Advanced Tax Accounting; Nov. 8-9; Chicago; BNA Tax and Accounting/ATLAS; (914) 328-5656; http://www.citeusa.org.

U. S. Transfer Pricing Planning & Controversies; Nov. 8-9; Chicago; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

BNA/SFI—European Structured Financial Products Summit; Nov. 9-10; Paris; BNA Tax and Accounting/ATLAS; (914) 328-5656; http://www.citeusa.org.

Legal, Tax & Financial Aspects of Captive Insurance; Nov. 15-16; Washington, D.C.; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

U.S. Tax Accounting (FAS#109) for U.S. Multinationals; Nov. 15-16; Washington, D.C.; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

Planning Techniques for Large Estates; Nov. 15-19; San Francisco; video webcast; American Law Institute-American Bar Association; http://www.ali-aba.org.

IFRS 2010 Update: Nov. 16-18; London; IIR Conferences; +44 (0) 20 7017 7790; e-mail kmregistration@informa.com; http://www.iir-events.com/ifrs.

Tax Strategies for Corporate Acquisitions, Dispositions, Spin-Offs, Joint Ventures, Financings, Reorganizations and Restructurings 2010; Nov. 16-18; Chicago; Practising Law Institute; 800-260-4PLI; http://www.pli.edu.

Renewable Energy Tax Credit Conference; Nov. 17-19; Washington, D.C.; Novogradac & Co.; (415) 356-7970; http://www.novoco.com/events/.

International Financial Reporting Standards: Fair Value Measurement Workshop; Nov. 18; London; International Accounting Standards Committee Foundation; +44(0)20 7017 7790; e-mail, experts@iir-conferences.com; http://www.iir-events.com/ifrs.

Earnings and Profits of Foreign Subsidiaries; Nov. 22-23; Cleveland; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

December

Tax Credit Financing Conference; Dec. 1-3; Las Vegas; Novogradac & Co.; (415) 356-7970; http://www.novoco.com/events/.

Tax Strategies for Corporate Acquisitions, Dispositions, Spin-Offs, Joint Ventures, Financings, Reorganizations & Restructurings 2010; Dec. 1-3; Los Angeles; Practising Law Institute; 800-260-4PLI; http://www.pli.edu.

Tax Credit Housing Finance Conference; Dec. 3; Las Vegas; Novogradac & Co.; (415) 356-7970; http://www.novoco.com/events/.

Introduction to U.S. International Tax; Dec. 6-7; Washington, D.C.; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

U.S. International Transfer Pricing 101; Dec. 6-7; Atlanta; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

U.S. International Tax Planning; Dec. 6-8; Atlanta; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

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IFRS 2010 Update: Dec. 8-10; Zurich; IIR Conferences; +44 (0) 20 7017 7790; e-mail kmregistration@informa.com; http://www.iir-events.com/ifrs.

Intermediate U.S. International Tax Update; Dec. 8-10; Washington, D.C.; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

Introduction to Taxation of Financial Products & Derivatives; Dec. 9-10; New York; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

International Financial Reporting Standards: Fair Value Measurement Workshop; Dec. 10; Zurich; International Accounting Standards Committee Foundation; ; e-mail, experts@iir-conferences.com; http://www.iir-events.com/ifrs.

Advanced Tax Accounting; Dec. 13-14; New York; BNA Tax and Accounting/ATLAS; (914) 328-5656; http://www.citeusa.org.

U. S. International Tax Reporting and Compliance; Dec. 13-14; New York; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

January 2011

45th Annual Heckerling Institute on Estate Planning; Jan. 10-14; Orlando; University of Miami School of Law; 305-284-4762;http://www.law.miami.edu/heckerling.

February 2011

12th Annual Tax Policy and Practice Symposium; Feb. 16-17; Washington, D.C.; Tax Council Policy Institute; (202) 822-8062; http://www.tcpi.org.

March 2011

Tax & Securities Law Institute; March 3-4; Austin, Texas; National Association of Bond Lawyers; (312) 648-9590; http://www.nabl.org.

Introduction to U.S. International Tax; March 21-22; Seattle; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

Intermediate U.S. International Tax Update; March 23-25; Seattle; BNA Tax and Accounting/CITE; (914) 328-5656; http://www.citeusa.org.

April 2011

Fundamentals of Municipal Bond Law Seminar; April 13-15; Atlanta; National Association of Bond Lawyers; (312) 648-9590; http://www.nabl.org.

October 2011

Bond Attorneys' Workshop; Oct. 12-14; San Antonio; National Association of Bond Lawyers; (312) 648-9590; http://www.nabl.org.

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BNA
DAILY TAX REPORT

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NUMBER 180 MONDAY, SEPTEMBER 20, 2010

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http://www.bna.com/daily/dtr

INTERNET SOURCES

Listed below are the addresses of websites consulted by editors of Daily Tax Report and also websites for official government information. The links provided by BNA are to external websites maintained by federal or state organizations in the U.S., foreign or international governing bodies, or nongovernmental organizations of interest to our subscribers. BNA has no control over their content, timeliness, or availability.

Internal Revenue Service
http://www.irs.gov

Treasury Department
http://www.ustreas.gov

U.S. Tax Court
http://www.ustaxcourt.gov

Treasury Inspector General for Tax Administration
http://www.treas.gov/tigta/

White House
http://www.whitehouse.gov/

U.S. House of Representatives
http://www.house.gov

U.S. Senate
http://www.senate.gov

Congressional Record
http://www.access.gpo.gov/su_docs/aces/aces150.html

Government Accountability Office
http://www.gao.gov

Federal Register
http://www.ofr.gov/inspection.aspx

http://www.ofr.gov/

http://www.federalregister.gov/

Financial Accounting Standards Board
http://www.fasb.org

Public Company Accounting Oversight Board
http://www.pcaobus.org/

International Accounting Standards Board
http://www.iasb.org.uk

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http://www.bna.com/products/corplaw/dtr.htm

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http://www.bna.com/products/tax/dttc.htm

Daily Report for Executives
http://www.bna.com/products/corplaw/der.htm

BNA Tax & Accounting
http://www.bnatax.com

Transfer Pricing Report
http://www.bnatax.com/Transfer-Pricing-Report-p7899/

Weekly State Tax Report
http://www.bnatax.com/Weekly-State-Tax-Report-p7901/

Securities Regulation & Law Report
http://www.bna.com/products/corplaw/srlr.htm

Pension and Benefits Daily
http://www.bna.com/products/eb/pend.htm

BNA Pension and Benefits Reporter
http://www.bna.com/products/eb/pen.htm

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Daily Tax Report's Home Page
http://www.bna.com/products/corplaw/dtr.htm

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