February 25, 2000

The Honorable William V. Roth, Jr.
Committee on Finance
United States Senate
104 Hart Senate Office Building
Washington, DC  20510

Dear Congressman Roth:

The ABA Section of Taxation strongly believes that major simplification of the tax laws should be viewed as an urgent and continuing priority on the part of the Congress. In collaboration with our professional colleagues in the American Institute of Certified Public Accountants Tax Division and the Tax Executives Institute, we have identified in the enclosed statement several areas in which simplifying legislative initiatives would be especially welcomed. This is not the first time we have joined with the AICPA and TEI to address tax simplification. In December of last year, we wrote to you to emphasize the importance of simplification as a critical component of an effective federal tax system. In those letters, we advised you of the joint effort the ABA Section of Taxation, AICPA, and TEI were undertaking. The enclosed statement reflects the first fruits of that effort. These Recommendations are presented on behalf of the ABA Section of Taxation. They have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the policies of the Association.

Concern about the critical need for simplification is not limited to tax professionals. In his most recent report to the Congress, the National Taxpayer Advocate confirms that complexity of the tax law "continues to be the most serious and burdensome problem facing America's taxpayers." His concerns were echoed by others at the Senate Finance Committee's IRS Oversight Hearing on February 2, 2000. The heavy burden of complexity affects the entire spectrum of taxpayers, from low-income individuals to multi-billion dollar corporations. It also impedes greatly the continuing efforts of the Internal Revenue Service to better administer and enforce the nation's tax laws.
Complexity is manifested by Internal Revenue Code provisions which contain either vague or highly technical requirements, often riddled with exceptions, limitations, and other special rules that even the most sophisticated of tax advisers can find difficult, if not impossible, to decipher. Added to that is the fact that many provisions, complex on their own, often must be applied in tandem with other complex provisions. Even if a complex provision, standing alone, works appropriately, when coupled with another complex provision the result may be simply horrendous. Constant changes and amendments to the tax laws, along with accompanying effective date and transition rules, also breed complexity, as well as uncertainty, confusion, and frustration throughout the taxpayer population. The constant changes, moreover, spawn a steady stream of new and often voluminous Treasury regulations, which require an enormous expenditure of time on the part of IRS National Office and Treasury Department personnel, and, unfortunately, sometimes exacerbate rather than ease the complexity of the underlying statutory provision. Short term extensions of popular provisions or relief from unpopular provisions cause administrative difficulties for the Internal Revenue Service and make it impossible for taxpayers to plan with any degree of certainty.

In joining our professional colleagues in this simplification effort, we encourage Congress to change fundamentally the way it considers tax legislation and tax simplification. Addressing the IRS Modernization Conference last month, Treasury Secretary Lawrence Summers observed, "Policy design is almost meaningless without policy implementation." We agree wholeheartedly with his statement. We recognize that most complex provisions of the Internal Revenue Code have had behind them laudable goals. In many cases, however, it is our considered judgment that the burdens the complex provisions impose on taxpayers and the Internal Revenue Service quite simply outweigh the benefits of attaining those goals. We also note that many times goals are superseded by changes in society or the economy or by other changes in the law so that complex provisions no longer serve their intended purpose, yet the provision remains in the law.

The enclosed statement sets forth recommendations for reform of provisions ranging from the earned income credit to the alternative minimum tax to the worker classification rules, all of which affect a significant number of taxpayers. We do not purport by any means to have compiled an exhaustive list of all areas in need of simplification. Indeed, this is no more than the tip of the iceberg. Nor do we intend to suggest any particular order of priority among the various recommendations made. We do believe, however, that implementation of simplification measures in the areas identified would significantly reduce complexity for large numbers of both individual and business taxpayers, and have the concomitant effect of making the tax laws far more administrable.
In conclusion, we respectfully urge the Congress to seize on a bipartisan basis every possible opportunity for developing and enacting simplification measures along the lines of the enclosed recommendations. We will continue our efforts with the AICPA and TEI to develop additional simplification recommendations and to refine the enclosed recommendations. Needless to say, the ABA Section of Taxation stands ready to provide whatever assistance and support you may find helpful in the critical task of simplifying the tax laws.

Please feel free to contact either Pamela Olson at 202/371-7240, or David Glickman, at 214/978-3057, if you have any questions regarding the enclosed recommendations.

Very truly yours,

Paul J. Sax
Chair,
ABA Section of Taxation

Enclosure

c: Members, Senate Committee on Finance