ABA president urges approval of Guantanamo transfer provisions

The ABA maintains that it is time to adopt a more flexible and commonsense approach with regard to detainee transfers from Guantanamo Bay, Cuba, and urged the Senate this month to include provisions in the FY 2014 National Defense Authorization Act that would permit the transfer of detainees to the United States for trial and clarify requirements for transfers to different countries.

ABA President James R. Silkenat wrote in a Nov. 18 letter to all senators that the ABA supports Sections 1031 and 1033 of S. 1197, the defense authorization bill that reached the Senate floor Nov. 18 for consideration after approval by the Senate Armed Services Committee.

Section 1031 addresses the requirements for transfer or release of Guantanamo detainees to their countries of origin or to another country other than the United States. Silkenat focused his letter primarily on the provisions in Section 1033, which would amend the blanket restriction in effect since 2010 that forecloses civilian court prosecutions of Guantanamo detainees by prohibiting the use of Department of Defense (DoD) funds to transfer detainees to the United States for any purpose. The new provisions would allow the secretary of Defense to waive the prohibition if it is determined that:

- such a transfer is in the national security interest of the United States;
- appropriate actions have been taken, or will be taken, to address any risk to public safety that could arise in connection with the detention and trial in the United States; and
- appropriate committees of Congress are notified not later than 30 days before the date of the proposed transfer.

Silkenat emphasized that the federal courts are “well equipped to handle terrorism trials, no matter how complex,” and that it is “in our national interest to permit determination regarding the best venue for prosecuting alleged terrorists detained at Guantanamo Bay to be made on a case-by-case basis.”

Silkenat explained that only seven of the 779 detainees who have been held at Guantanamo Bay since 9/11 have been convicted by military commissions. Five of those convictions were a result of plea bargains, and two convictions were vacated because the crimes with which they were charged were codified as war crimes after the defendants allegedly committed them. In addition, none of the crimes are recognized as violating the international law of war. One of those convictions has been reinstated pending a decision by the Court of Appeals of the D.C. Circuit.

Even though military commissions have been existence for 12 years, litigation over access to counsel and breaches of the attorney-client privilege, in
**LEGISLATIVE BOXSCORE**

<table>
<thead>
<tr>
<th>ABA LEGISLATIVE PRIORITY</th>
<th>HOUSE</th>
<th>SENATE</th>
<th>FINAL</th>
<th>ABA POSITION</th>
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<tbody>
<tr>
<td><strong>Gun Violence.</strong> S. 150 and H.R. 437 would limit the future sale and transfer of assault weapons and ammunition devices that hold more than 10 bullets. S. 54 and H.R. 452 seek to combat the practices of straw purchasing and illegal trafficking of firearms. S. 374 would strengthen background checks. S. 649, a comprehensive bill, includes numerous gun violence prevention provisions.</td>
<td>H.R. 437 was referred to the Judiciary Committee on 1/29/13; H.R. 452, on 2/4/13.</td>
<td>Judiciary Committee held hearings and approved S. 54 on 3/7/13; S. 53, on 3/11/13; and S. 374, on 3/12/13. Judiciary subc. held a hearing on 2/12/13. Senate began consideration of S. 649 on 4/8/13.</td>
<td></td>
<td>Supports steps to prevent gun violence by strengthening the nation’s gun laws.</td>
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ABA supports ratification of U.N. disabilities treaty

ABA President James R. Silkenat urged the Senate Foreign Relations Committee this month to favorably report the Convention on the Rights of Persons with Disabilities (CRPD), a treaty that he said “would send a clear message to the world of our support for the human rights principles of the treaty, as well as our role in the world as a leader for the rights of people with disabilities.”

The CRPD, which fell just five votes short of the 66 votes required for approval in the last Congress, sets forth globally accepted standards on disability rights and clarifies the application of human rights principles to persons with disabilities.

According to a letter from Silkenat for the record of a Nov. 5 hearing on the treaty, approximately 650 million people – 10 percent of the global population – are living with disabilities, and a vast majority of those individuals face discrimination in education, employment, housing, health care and other areas.

“As the world’s historic leader in disability policy, the United States has a responsibility to join the international effort to promote, protect and ensure the full and equal enjoyment of human rights and fundamental freedoms by persons with disabilities around the world,” Silkenat wrote.

Committee Chairman Robert Menendez (D-N.J.) noted at the hearing that 138 countries have already ratified the treaty, but he said protections won’t come automatically. He emphasized that it will take U.S. ratification and leadership to ensure that the treaty’s protections not only become a reality but also reflect American values.

“At the end of the day, if we fail to ratify this treaty, the U.S. point of view and U.S. interests will be marginalized,” he said.

Silkenat said that CRPD ratification will not require changes in domestic law or create opportunities for new lawsuits as opponents have claimed. He explained that the Supreme Court held in *Medellin v. Texas* in 2008 that a treaty is not binding as a matter of domestic law unless Congress has enacted statutes implementing it or the treaty itself conveys an intention that it be “self-executing” and ratified on that basis. Silkenat said the proposed resolution of ratification for the CRPD includes a declaration that the CRPD provisions are “non-self-executing,” meaning that the treaty will not be judicially enforceable and will not create a private right of action in the U.S. courts.

He also emphasized that CRPD ratification will not change the definition of “disability” under U.S. law. The treaty allows countries to apply their own definition through domestic law and policy.

Silkenat addressed another concern that the CRPD would infringe upon U.S. sovereignty, explaining that the U.N. Committee on the Rights of Persons with Disabilities, established by the treaty to develop non-binding recommendations, has no authority to require or compel action by the United States.

The ABA, he said, agrees with a Nov. 4 memorandum prepared by the law firm of Patton Boggs LLP see “Disabilities treaty,” page 9

NATIONAL SECURITY: National security experts convened Oct. 31-Nov. 1 in Washington, D.C., for the 23rd Annual Review of the Field of National Security Law, an event cosponsored by the ABA Standing Committee on Law and National Security; the Center for National Security Law, University of Virginia School of Law; the Center on Law, Ethics and National Security, Duke University School of Law; and the Center on National Security and the Law, Georgetown Law. The opening panel — an executive update moderated by Harvey Rishikof, chair of the ABA committee’s advisory committee — featured (seated from left): Brad Wiegmann, deputy assistant attorney general, National Security Division, U.S. Department of Justice; Robert Litt, general counsel, Office of the Director of National Intelligence; Robert Eatinger, senior deputy general counsel, Central Intelligence Agency; BG Richard C. Gross, legal counsel to the Chairman of the Joint Chiefs of Staff; Rajesh De, general counsel, National Security Agency; and Robert Taylor, principal deputy general counsel, U.S. Department of Defense.
Employment non-discrimination bill passes Senate

The Senate took a major step last month when it passed a bill Nov. 7 to bar employers from discriminating against their employees on the basis of sexual orientation or gender identity.

The 64-22 vote for the bill, S. 815, is the first time either house of Congress has approved legislation to protect transgender as well as gay, lesbian and bisexual workers. Known as the Employment Non-Discrimination Act (ENDA), the bill would prohibit private businesses, public employers and labor unions from making employment decisions – hiring, firing, promotion or compensation – based on a person’s actual or perceived sexual orientation or gender identity.

Employers with a primarily religious purpose and character would be exempt from the provisions. During debate on the bill, senators adopted an amendment that would prevent state and municipal governments from retaliating against religious employers who do not employ gay, lesbian, bisexual or transgender people.

Sen. Tom Harkin (D-Iowa), chairman of the Senate Health, Education, Labor and Pensions Committee, pointed out during Senate debate on the bill that, despite the passage of anti-discrimination laws at the state and local levels, discrimination in the workplace continues to be all too real.

According to a 2012 report produced by the Williams Institute at UCLA, studies have found that, as recently as 2008, as many as 37 percent of lesbian, gay and bisexual employees experienced discrimination in the workplace. Transgender and other gender nonconforming persons face severe discrimination in all public aspects of their lives, particularly employment. A 2011 survey of transgender people showed that 90 percent of respondents reported having experienced harassment or mistreatment at their workplace.

Harkin emphasized that it has been almost 50 years since the nation first took steps to eliminate discrimination at work and 23 years since enactment of the Americans with Disabilities Act. He said the country is a far better place because of laws against discrimination based on race, sex, national origin, religion, age and disability.

“At long last,” he said, “it is time for us to prohibit discrimination on the basis of sexual orientation and gender identity,” adding that such discrimination is “wrong and cannot be tolerated any longer in our country.”

The ABA has been urging lawmakers to prohibit discrimination on the basis of sexual orientation since 1989, and approved policy in 2006 urging enactment of legislation prohibiting discrimination on the basis of real or perceived gender identity in the areas of housing, employment and public accommodations.

Just prior to the Senate vote, the Obama administration issued a statement strongly supporting the bill. “This bipartisan legislation is necessary to ensure that strong federal protections exist for lesbian, gay, bisexual and transgender workers no matter where they live,” the statement said, emphasizing that “passage of this bill is long overdue.”

A companion bill, H.R. 1755, is pending in the House where the nearly 200 cosponsors are primarily Democrats, making prospects for the legislation uncertain without stronger Republican support.

Guantanamo detainees

continued from front page

addition to uncertainty over rules governing procedural matters, continue to mire down proceedings and contribute to delays in moving forward with trials.

By contrast, Silkenat pointed out, more than 400 individuals have been prosecuted and convicted of jihadist terrorism-related crimes in the federal courts. He said that these prosecutions have resulted in convictions with life sentences and, according to numerous accounts, also have generated valuable intelligence about the United States’ enemies.

“Our Article III federal courts, praised around the world, have successfully handled the prosecution of hundreds of terrorists, many of whom were convicted of material support offenses. They are an established and respected tool in upholding the rule of law and bringing terrorists to justice,” Silkenat said.

He emphasized that the ABA recognizes that not all terrorism cases can or should be prosecuted in federal courts, but the association firmly believes that those responsible for national security should retain the option of prosecuting in Article III courts if doing so is in the national security interest of the United States.

During Senate debate on S. 1197 on Nov. 19, the Senate failed to garner the votes to pass two proposed amendments to gut the detainee provisions. Deliberations on the authorization bill are expected to continue when the Senate returns from its Thanksgiving recess in early December.
ABA says judicial shortages impacting federal courts

The ABA told the House Judiciary Committee last month that “the combination of too few judges and insufficient funding is diminishing the ability of the federal courts to serve the people and deliver timely justice.”

“When federal courts do not have sufficient judges to keep up with the workload, civil trial dockets take a back seat to criminal dockets due to the Speedy Trial Act,” ABA Governmental Affairs Director Thomas M. Susman wrote in an Oct. 29 letter for the record of a hearing entitled “Are More Judges Always the Answer?”

He explained that persistent shortages of judges increase the length of time that civil litigants and businesses wait for their day in court, create pressures that “robotize” justice, and increase case backlogs that will perpetuate delays for years to come. This has real consequences for the financial well-being of communities and businesses and for the personal lives of litigants whose cases must be heard in federal courts, he said.

Susman noted that since the last comprehensive judgeship bill was enacted in 1990, a steady and steep increase in federal judicial caseloads has been fueled in large part by congressional expansion of federal court jurisdiction and national drug and immigration policies that call for and fund enhanced law enforcement efforts. Since that time, Congress has authorized only 34 additional district court judgeships while allowing a half-dozen temporary judgeships in other districts to expire.

Consequently, district courts have experienced a 39 percent increase in filings, but only a four percent increase in judgeships. In addition, the number of appellate judges has not changed despite a 34 percent increase in filings since 1991.

The Judicial Conference of the United States, which analyses the court’s needs for judges every two years, has recommended the addition of five permanent judgeships and one temporary judgeship for the courts of appeals and 65 permanent judgeships and 20 temporary judgeships for the district courts. Also recommended by the group is the conversion of eight existing temporary district court judgeships to permanent status.

Susman expressed ABA support for S. 1385, a bill sponsored by Sen. Chris Coons (D-Del.) to implement the Judicial Conference recommendations.

Acknowledging that some members of Congress question the methodology by which weighted and adjusted case filings are determined and caseload minimums are set to decide the need for judges, the ABA urged collaboration among Congress, the Judicial Conference and the Government Accountability Office to resolve the impasse over the methods so that the needs of the U.S. courts can be met.

Committee Chairman Robert Goodlatte (R-Va.) called the Oct. 29 hearing to focus specifically on whether filling the three vacant seats on the Court of Appeals for the District of Columbia Circuit, which he said has the lowest caseload in the country, is the best use of limited taxpayer dollars.

The Senate has prevented the D.C. Circuit vacancies from being filled this fall by failing to garner the 60 votes required to invoke cloture for three nominees: Patricia Millett, Cornelia Pillard and Robert Wilkins. Opponents maintain that these nominations by President Obama are an attempt to “pack” the 11-member court with a majority of judges appointed by Democratic presidents. Sen. Charles E. Grassley (R-Iowa) and 17 other Republicans have proposed S. 699, a bill to decrease the D.C. Circuit from 11 to eight judges by transferring two of the vacancies to other circuits and eliminating the third.

During the House hearing, Nan Aron, president of the Alliance for Justice, emphasized the importance of filling the D.C. Circuit vacancies.

“The D.C. Circuit handles some of the most complex, lengthy, sensitive litigation in the federal courts,” she said, explaining that it is the court that most closely oversees actions of federal agencies on topics like the environment, consumer protections, workers’ rights, banking regulations and other vital issues. “It makes no sense to shortchange the court that handles some of the toughest cases with the biggest impacts,” she said.

Senate votes change in filibuster rules

The Senate invoked the “nuclear option” Nov. 21 and voted 52-48 to change Senate rules to provide that a simple majority of 51 votes, rather than the current 60, will be required to invoke cloture to end filibusters of executive and judicial nominees, with the exception of nominees to the Supreme Court.

Normally, 67 votes are required to change the Senate rules, but the nuclear option allows the majority party to propose rule changes that may be approved by a simple majority vote. Senate Majority Leader Harry Reid (D-Nev.), frustrated with the Senate’s inability to garner the 60 votes to end debate and bring several of President Obama’s nominations up for a vote, said of the change: “It is time to get the Senate working.”

Immediately after the rule change was adopted, cloture was invoked to cut off debate by a vote

see “Nuclear,” page 8
ABA urges use of plain language in regulations

The ABA urged Congress this month to enact legislation that would require the use of plain language for all new and substantially revised federal regulations in accordance with guidance issued by the Office of Management and Budget under the Plain Writing Act of 2010.

The legislation, H.R. 1557 and S. 807, would require federal agencies to write regulations using plain language that is clear, concise, and well-organized, and follows other best practices appropriate to the subject or field and intended audience. The House bill also includes language supported by the ABA that would minimize cross references in regulations.

The ABA has long urged federal agencies to promote understanding of legal obligations by writing plainly worded regulations, and the core objective of both bills falls squarely within the association's longstanding policy adopted in 1999.

"The purpose of the policy is straightforward: because regulations have the force of law, it is only just and fair that they be readily comprehensible to those who are or may be subject to the obligations they create," ABA Governmental Affairs Director Thomas M. Susman wrote in Nov. 14 letters to the House Judiciary Committee, the House Oversight and Government Reform Committee and the Senate Homeland Security and Governmental Affairs Committee. "In our view, when the federal government issues rules that clearly articulate both what is required and the expected benefits, it is most likely to achieve the goals of accountability and transparency," he said.

Techniques that may be used for writing plainly worded regulations, Susman said, include:
- organizing them for the convenience of their readers;
- using direct and easily understood language;
- writing in short sentences, in the active voice; and
- using helpful stylistic devices, such as question-and-answer formats, vertical lists, spacing that facilitates clarity, and tables.

Susman added that the ABA believes the bills could be further improved by adopting some technical and clarifying amendments, including elimination of an "unrealistic" requirement in H.R. 1557 that the agency head or a person designated by him or her certify that the agency’s head personally has read the text of every proposed or final regulation and that it is in plain language.

ABA urges use of plain language in regulations

Judicial Vacancies/Confirmations—113th Congress* (as of 11/22/13)

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*Includes territorial judgeships
RIGHT TO COUNSEL: The ABA expressed strong support last month for H.R. 3407, a bill introduced by Rep. Ted Deutch (Fla.) to establish a National Center for the Right to Counsel to help ensure that indigent defendants receive competent counsel under the Sixth Amendment as enunciated in the 1963 Supreme Court decision in Gideon v. Wainwright. In an Oct. 28 letter to Deutch, ABA Governmental Affairs Director Thomas M. Susman wrote that the ABA has played an instrumental role over the past 50 years in developing standards and guidelines setting forth what competent counsel must do to adequately represent his or her clients. The ABA’s efforts, which include white papers and technical assistance to states, have not been enough, he said, and too many states still fall far below what is required by the Constitution. He noted that rules of professional responsibility, underscored by recent ABA ethics opinions, require defenders and their supervisors to provide competent service and not to accept excessive caseloads that undermine the quality of their representation. He stressed, however, that the “relentless assignment of new cases routinely prevents adherence to this admonition” and the situation has gotten worse due to the economic downturn. “The ABA believes the need is urgent,” Susman wrote. “A chronic, persistent indigent defense crisis has reached a point of system breakdown in the number of states, and lawyers increasingly have sought relief in the courts, often unsuccessfully,” he explained. Earlier this year the ABA renewed its call from 35 years ago for the federal government to establish and fund an independent, nonprofit Center for Defense Services to administer matching grants and other programs to strengthen the services of public defenders, private assigned counsel and contract defenders. As envisioned by the ABA, Susman said, the proposed center would receive funds directly from Congress and be governed by an independent board of directors appointed by the president. Deutch’s proposed legislation, he said, “embodies our shared goal of establishing a national center that would work with state advisory bodies toward comprehensive improvement of public defense delivery nationwide.”

PRISONS: The Bureau of Prisons (BOP) has changed its plans and decided to construct a new facility for women in Danbury, Connecticut, after concerns were raised over the past few months by the ABA and Sens. Chris Murphy (D-Ct.), Richard Blumenthal (D-Conn.), Kirsten Gillibrand (D-N.Y.) and Patrick Leahy (D-Vt.), chairman of the Senate Judiciary Committee. The original plan was to convert the Federal Correctional Institution in Danbury, a women’s facility, to a men’s low-security facility and transfer all of the women inmates to a facility in rural Alabama. Instead, the BOP announced this month that it will convert a local satellite camp into a women’s low-security facility. “This is excellent news for the children and families of inmates in the Northeast,” according to a press release issued by Murphy’s office. In the release, the senators expressed relief. “The original plan put forward by BOP…would have nearly eliminated federal prison beds for women in the Northeastern United States, dramatically disrupting the lives of these female inmates and the young children they often leave behind,” they explained. “We are pleased that will no longer be the case.” On Aug. 5, ABA Governmental Affairs Director Thomas M. Susman sent a letter to BOP Director Charles E. Samuels Jr. urging the delay of the proposed transfer. “The likely impact of the planned move would be to disrupt family ties and access in a manner that is harmful to prisoners and their families,” Susman wrote. He cited the ABA Standards on the Treatment of Prisoners, which requires that prisoners have access to community services and visitation with families – factors critical to prisoners’ successful reentry.

JUVENILE COURT RULES: The ABA expressed support this month for most of the changes proposed recently by the Juvenile Court Procedural Rules Committee of the Pennsylvania Supreme Court regarding the role and duties of lawyers in juvenile court proceedings. The proposed juvenile court rules are patterned generally after the ABA Model Act Governing the Representation of Children in Abuse, Neglect and Dependency Proceedings, which was approved by the ABA House of Delegates in 2011 after a three-year drafting process. “The model of client-directed representation within the ABA Model Act represents the best practices as well as the highest ethical standards for the representation of children,” ABA Governmental Affairs Director Thomas M. Susman wrote Nov. 15 to the Supreme Court of Pennsylvania. The ABA Model Act, the ABA Model Rules of Professional Conduct and the proposed Pennsylvania Juvenile Court rules contain sufficient safeguards for clients with diminished capacity who cannot be counseled out of an unsafe decision and outline how a lawyer can take protective action for a child client if necessary, Susman said. He did urge, however, that the rules committee reconsider proposed language that would allow the court to determine if a client has diminished capacity and whether the child’s attorney is authorized to exercise substituted judgment. The ABA maintains that such an action violates the canons of ethics because it could compromise the attorney-client relationship, and it is not the court’s role to determine the role of the lawyer. He also recommended another change in the commentary of the rules to clarify that requesting a guardian ad litem for the client should not be mandatory for a lawyer in certain cases, and that lawyers should have flexibility in such decision-making.

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You can follow us at @ABAGrassroots for updates on GAO activities as well as the scoop on what is happening inside the Beltway. Questions? Contact Jared Hess at Jared.Hess@americanbar.org.
House passes adoption incentives legislation

The House passed legislation Oct. 22 to reauthorize and expand the Adoption Incentives Program that incorporates recommendations from the ABA to continue the Family Connection Grants program supporting efforts to reconnect children in foster care with their families.

H.R. 3205, sponsored by House Ways and Means Committee Chairman Dave Camp (R-Mich.) and Ranking Member Sander Levin (D-Mich.), cleared the House by a unanimous vote of 402 yeas.

The bill, known as the Promoting Adoption and Legal Guardianship for Children in Foster Care Act, would reauthorize the Adoption Incentives Program for three years and revise the awards to focus on increasing adoption rates as opposed to the raw number of adoptions. The program, created as part of the Adoption and Safe Families Act of 1997 and most recently reauthorized in 2008, provides financial incentives to states for increasing adoption from foster care.

In addition to Family Connection Grants, other provisions focus more resources on increasing adoptions of older children and create a new award category for increasing the rate of children leaving foster care for legal guardianship.

In comments submitted Aug. 28 to Camp and Levin regarding a draft of the legislation, ABA Governmental Affairs Director Thomas M. Susman commended the Ways and Means Committee for its commitment to encouraging state and local child welfare agencies to achieve permanency for children and youth in foster care.

He applauded the provisions in the draft to expand and improve the Adoption Incentives Program and to provide incentive payments to states for increasing the rate of children reaching permanency through legal guardianship.

He reiterated the ABA’s views in an Oct. 7 letter to Senate Ways and Means Committee Chairman Max Baucus (D-Mont.) and Ranking Member Orrin G. Hatch (R-Utah).

In both of his letters, Susman highlighted the ABA’s longstanding commitment to improving the lives of the nation’s most vulnerable children and families and emphasized that the House of Delegates has approved numerous policies since 1988 relating to the child welfare system.

He encouraged the senators also to include provisions offering incentives to secure safe reunification, which he said would further motivate states to help families achieve that goal and ensure that reunification is recognized as a priority permanency goal.

“Creating three independent incentive programs to encourage the permanency goals of reunification, adoption, and guardianship will help encourage and enable state and county child welfare agencies to actively work toward and invest in each valuable and important option for children and families,” Susman wrote.

Nuclear option

continued from page 5

of 55-43 on a motion to reconsider the nomination of Patricia Millett to the Court of Appeals for the District of Columbia Circuit. Millett is one of three nominees for that circuit whose nominations have been stalled because of Republican filibusters this past month (see article, page 5). Her confirmation vote is scheduled for Dec. 9 after the Senate returns from its Thanksgiving recess.

President Obama offered his support for the Senate’s action in a statement from the White House.

“All too often we’ve seen a single senator or a handful of senators choose to abuse arcane procedural tactics to unilaterally block bipartisan compromises or to prevent well-qualified, patriotic Americans from filling critical positions of public service in our system of government,” he said, emphasizing that “neither party has been blameless for these tactics.”

Obama said the obstruction is even worse for judicial nominations than for the executive branch. He pointed out that his judicial nominees have waited nearly two and a half times longer to receive yes or no votes on the Senate floor than those of his predecessor. Those who do get a vote are confirmed with little if any dissent, he said.

“So this isn’t obstruction on substance, on qualifications. It’s just to gum up the works,” he said. “And this gridlock has not served the cause of justice. In fact, it’s undermined it,” he concluded.
New ABA policy opposes burdensome tax proposal

The ABA Board of Governors adopted a resolution Nov. 16 that opposes proposed legislation in Congress that would require all law firms and other personal service businesses with annual gross receipts over $10 million to use the accrual method of accounting rather than the traditional cash receipts and disbursement method.

The proposed requirement, contained in Section 212 of a House Ways and Means Committee discussion bill known as the “Tax Reform Act of 2013,” would cause significant financial hardship to many law firms, accounting firms and other personal service businesses by forcing them to pay tax on income they have not yet received and may never receive, according to the ABA. The ABA also is concerned that the proposal could create unnecessary complexity in the tax laws while increasing compliance costs.

Under current law, businesses are permitted to use the simple, straightforward cash receipts and disbursement method of accounting – in which income is not recognized until cash or other payment is actually received and expenses are not taken into account until they are actually paid – if their average annual gross receipts for a three-year period are $5 million or less. However, an exemption currently applies to all law firms and other personal service businesses which allows them to use the cash method of accounting irrespective of their annual revenue unless they have inventory.

The more complicated accrual method that would be required by the proposal recognizes income when the right to receive the income exists rather than when payment is received.

Ways and Means Committee Chairman Dave Camp (R-Mich.) is expected to introduce the comprehensive tax reform legislation sometime in the near future.

Disabilities treaty

that concluded that there is “no authority in the text of the Constitution or the decisions of the Supreme Court for the proposition that the CRPD can restrict existing constitutional rights and freedoms of citizens, and the proposed RUDs (reservations, understandings and declarations) conform the government’s international obligations under the convention to its constitutional obligations.”

Among those testifying in favor of CRPD ratification was Rep. Tammy Duckworth (D-Ill.), a disabled veteran who said she has seen firsthand that even countries that are moving forward economically are not keeping pace with the necessary protections for disabled persons.

“The United States has an opportunity to lead,” she said, “but to do so we must first ratify this treaty.” U.S. ratification, she testified, will allow veterans with disabilities “to have greater opportunities to work, study abroad and travel as countries implement this treaty.”

Others supporting the CRPD included former secretary of Homeland Security Tom Ridge, who chairs the National Organization on Disability, and former Attorney General Dick Thornburgh.

More witnesses, including Secretary of State John F. Kerry, testified in support of the treaty when the committee convened another hearing on Nov. 21. The committee is expected to schedule markup of the treaty for the week of Dec. 9.