

FROM THE CHAIR-ELECT

by Pamela F. Olson, Washington, DC



PAMELA F. OLSON

REFLECTION

Before looking ahead, let's reflect on the year ending—a year of exemplary achievements for the Section. I want to express my gratitude to Paul Sax for his leadership. Working closely with Paul has been a most enjoyable experience. Paul spurred the Section's efforts in many directions and, with his quick wit, kept us in good humor. You perhaps observed Paul auctioning his suits at the May plenary session. Despite the lack of buyers, future Section meetings will be officially casual attire. For this closing act, those of us lacking Paul's sartorial elegance are most grateful! I look forward to Paul's continued guidance—and humor—next year.

SETTING A SECTION AGENDA

We adopted changes to the Section intended to assist in setting and pursuing a Section agenda. The changes include combining Committees, appointing Committee Vice Chairs for law development, and assigning responsibility for related Committees to a single Council Director to improve coordination of CLE and Committee projects to bet-

ter the law. We also appointed representatives from the Section—Mort Harris, Phil Mann, Marjorie O'Connell, and Tom Terry—to each of the new IRS Operating Divisions to work with the Operating Divisions to identify issues needing guidance and to bring those issues to the responsible Committees for preparation of a Section response.

PREPARING FOR THE FUTURE

The growth of multidisciplinary practice and law-by-internet has caused us to reconsider the future of the profession and how the Section prepares its members for the challenges that lie ahead. The world in which we live and our clients operate presents ever more opportunities and grows ever more complicated, often requiring more than legal skills to solve a client's problems. In some cases, clients perceive more value in specialized knowledge not gained in law school—the financial planning services, for example, of the estate planner—than in the legal skills. In addition, many routine legal services are purchased like a commodity by clients unwilling to pay for personalized services.

Born of our role as advisors, counselors, and strategists, lawyers have long been society's leaders. Increasing complexity requires skilled technicians, but too much specialization may reduce us to mere scribes rather than produce the leaders of tomorrow. It can leave us studying pieces of the puzzle rather than seeing how they fit together to form a complete picture. We short-change ourselves by emphasizing the technical skills needed to bill eight hours today at the expense of the knowledge and judgment that will make us valuable to our clients today and in the future. If we are to pro-

vide adequate representation to our clients, we must prepare ourselves to address the opportunities and complexities they face. That means we must be more than competent technicians. We must also understand the larger world in which our clients make decisions and equip ourselves with the sophisticated knowledge that allows us to advise them completely.

With that in mind, we are broadening the programs at our October and January Section meetings and building them around a theme. For October, the theme is "taxes in a global economy." For January, the theme is "e-commerce." Our aim is to produce programs valuable to specialists and generalists alike. While the programs are still being developed by our Committee Chairs, expect a big picture view of the significant issues presented by globalization and e-commerce. Of course, not every program will address these topics, and our Committees will continue to explore issues of import to their members.

YOUNG LAWYERS (AND THOSE WHO HIRE THEM)

Law firm starting associate salaries have reached astronomical levels in many parts of the country, meaning law firms are making a huge investment in young lawyers. (Compared to salaries, the price of Section meetings is a bargain!) Despite the salaries, once through the door, young lawyers must still be trained. The better the training, the greater the value. That's where the Section comes in because we have geared programs at every meeting to young lawyers and those who aren't specialists in a particular area of the tax law. If you're a young lawyer, make an investment in yourself! Take the time to participate in

Section meetings and activities. You owe it to your future. If you're one of those who hire them, protect your investment! Train those valuable associates by supporting and encouraging their Section participation.

DIVERSITY

The Section luncheon in May honored two great women—Tax Court Chief Judge Mary Ann Cohen and former Assistant Attorney General Loretta Argrett—for their years of service to the tax system. Judge Cohen reflected on her experiences with real people as a tax lawyer and a judge. Loretta focused on diversity and offered advice to all, young and old, majority and minority. She noted we have too often failed to integrate women and minorities into our institutions. She urged us to recognize the impact of subtle biases, told us to take the chips off our shoulders, and inspired us to work harder and try harder. Her remarks bear repeating. Look for them in a future issue of the *Newsletter*.

DOING GOOD

The manual for low-income taxpayer clinics prepared with the assistance of many Section members under Jerry Borison's direction is at last complete and will soon be available. We owe a debt of gratitude to Jerry and all the contributors for their devotion of time to this project. We'll report other plans for "doing good" in future newsletters.

"MAY YOU LIVE IN INTERESTING TIMES"

Of late, it seems this Chinese curse has been cast on those of us practicing tax law. Critical issues face the tax system and the profession, and those issues are made more challenging by the growth of e-commerce and the globalization of the economy. Over the next year, we will explore some of these issues to equip ourselves to represent our clients and to continue our efforts to

improve the tax system. Among the issues are:

- *Complexity.* It burdens the economy, complicates tax administration, leads to unintended results, feeds the proliferation of tax shelters, and weakens the self-assessment system. Working with our colleagues at AICPA and TEI, the Section proposed a tax simplification agenda in February. We intend to continue as a voice for tax simplification and to expand the effort among our Committees. David Glickman, who co-chaired our Simplification Task Force for the past two years, will be joined by Helen Hubbard. I am particularly grateful to David, a veteran of simplification efforts, for his insights.
- *Global Economy.* Speaking of complexity, what Code provisions are more complex than the international tax provisions? Yet the growth in international and e-business makes it important for all tax practitioners to have a basic understanding of the international tax regime and its effects. The system's complexity, extraterritorial operation, rules on income recognition and cost recovery, and cost of compliance affect significant business decisions. Change is needed. The World Trade Organization's recent decision on FSCs could be the impetus for changing the international tax regime if avoiding trade sanctions spells the FSC's demise.
- *E-Commerce.* Collection of state and local sales taxes and taxation of internet traffic are only two of the tax issues—which extend beyond national borders—brought by e-commerce. Moreover, e-businesses present their advisors with many unique and unusual tax issues and the tax system with many challenges.
- *Corporate Tax Shelters.* The Section has expressed its concerns about the proliferation of tax shelter transactions, and the concerns

have been heard. Recent court decisions and administrative pronouncements have clearly expanded the scope and application of the economic substance doctrine, without providing sufficient clarity about its contours to avoid concerns that it will be used to attack long-accepted planning techniques. Despite the decisions and the new registration, listing, and disclosure requirements, the perception that tax shelter transactions are proliferating continues. At the same time, the application of the economic substance doctrine perplexes practitioners dealing with transactions clearly motivated by business objectives. Taxes, Judge Hand observed, are enforced exactions, not voluntary contributions, and taxpayers are entitled to arrange their affairs so as to minimize them. Clients expect their lawyers to zealously represent them in so arranging their affairs. Although some assume drawing the line between legitimate tax minimization and off-the-edge tax planning is not difficult, the perceptions of proliferating transactions suggest the lack of clarity of the lines may be a significant cause of the problem. It may be time to explore alternatives to minimize ambiguity in the Code and align the interests of all in facilitating tax advice that correctly predicts judicial outcomes.

- *Industrial Revolution.* We are operating in another industrial revolution with technological, regulatory, and legislative changes reshaping the economy and necessitating changes to the tax rules under which different industries operate. For example, recent legislative change permits the merger of the banking and insurance industries, which are taxed under very different regimes. Our banking and insurance Committees will address the tax implications of this change at our October meeting.

See you in L.A.! ■