

COUNCIL ACTIONS

by N. Susan Stone, Secretary, Houston, TX

The Council of the ABA Section of Taxation met on August 2, 2001, at the Annual Meeting of the ABA Section of Taxation in Chicago, Illinois. The Council heard reports and took actions on the following topics.

TAX SECTION MEETING SCHEDULE

Dick Lipton, Section Chair, led Council in a discussion of whether or not the Section should change the number of meetings it holds each year and the time of those meetings. The discussion was precipitated by a preliminary report on the ABA Annual Meeting recently released by the ABA's Annual Meeting Task Force (the "ABA Report"). Although the ABA Report has not yet been adopted, it was the consensus of Council that if the ABA Report is adopted and fully implemented by the 2003 Annual Meeting, the Tax Section may be adversely affected. Council therefore discussed whether the Section should continue to attend the Annual Meeting and, if not, the number and timing of Tax Section meetings. Alternatives discussed included: (1) keeping three meetings per year in January, May and August or September, (2) changing to two meetings per year in May and October or November, (3) holding two meetings per year in January and May, or (4) treating the Annual Meeting as the third meeting per year on a committee-by-committee "opt in" basis and keeping the current January and May Meetings.

Although Council conducted a straw poll of its members which indicated a strong preference for discontinuing the Section's participation in the ABA Annual Meeting, Council's non-binding vote was divided on whether and when to hold two or three Section meetings per

year. The Chair, with the agreement of Council, announced his intention to poll Section members directly on this important issue.

JOINT PUBLICATION WITH IRS

It was reported that the IRS had requested the Section's help in funding the publication of a pamphlet on tax issues for abused spouses and other domestic abused persons. The IRS' proposal is that the Section would contribute to, and jointly publish, the pamphlet. The pamphlet would address the tax issues confronted by those who may be afraid to file a true and correct tax return and who are ignorant of their right to file a separate return.

CIRCULAR 230

Dick Lipton and Rick Ballard, Chair of the Special Projects Committee, led Council in a discussion of whether the Section should supplement its prior comments to Treasury on the proposed Circular 230 regulations. Dick reported that the Section's prior comments, submitted April 30, 2001, stressed that the proposed regulations were too broad and that the definition of a "tax shelter" should be replaced with a definition that emphasized "the principal purpose" of the transaction. It was the general consensus of Council that the prior submission should be supplemented by a submission that more carefully fine tunes the definition of "tax shelter."

After significant discussion of the prior submission and proposed alternative supplemental submissions, Council, by majority vote, approved a supplemental submission that defines a tax shelter as a transaction that satisfies any one of three alternative tests. Council further agreed that

the supplemental submission would propose that Circular 230 be applicable to any opinion concerning a tax shelter, as defined, regardless of whether the opinion is intended to create penalty protection.

Editor's Note: The Chair's column in this *Newsletter* describes this submission in further detail.

REPORT ON MEMBER VALUE

Dick Shaw, Chair of the Member Value Task Force, presented to Council the Task Force's status report on its review of values and benefits provided to members of the Section. The Task Force Report concluded that the most reliable method for determining whether members are receiving value from the Section is a periodic broad-based survey to determine the demographics, interests and satisfaction level of members. Inasmuch as the last broad-based survey of the Section was conducted in 1997, the Task Force recommended that new surveys be conducted in 2001 of both existing and former members of the Section, and that the American Bar Foundation distribute and tabulate the survey. The Task Force Report also recommended that once the results of the 2001 surveys are analyzed, a Long-Range Planning Committee be designated and staffed to evaluate whether and how Section programs and member benefits should be revised. After discussion, Council unanimously approved these two recommendations from the Task Force Report. ■