

# FROM THE CHAIR

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## PREDICTIONS

**W**riting this column is a challenge because of the time lag between final copy and mailing. Today's rapid pace means that even day-old news can be *very old* news. That is never more true than now. As I write, the 106<sup>th</sup> Congress is in its final day, and we have known the identity of our 43<sup>rd</sup> President for only 48 hours. By the time you read this, the new Administration and the 107<sup>th</sup> Congress will have taken over, and we will perhaps have some sense of what they will bring us. As of today, we can only guess whether the spirit of bipartisanship evident in the presidential contestants' concession and victory speeches will prevail or whether the even divide in the presidential election and Congress will result in division in the months ahead. Served with a twist of optimism, here are my predictions for 2001—the *real* first year of the new millennium.

**Bipartisanship Will Prevail.** Polls indicate the American populace wants politicians to set party labels aside and work for the good of the country as a whole. An evenly divided Senate and closely divided House means the parties must work together to accomplish anything meaningful. In other words,

unless party affiliation is set aside, Congress will accomplish little.

**A Bipartisan Model.** A reason for optimism is that Congress showed itself capable of bipartisan action even in the 106<sup>th</sup> Congress. Though much criticized for partisanship and lackluster performance, the 106<sup>th</sup> Congress passed noteworthy international trade legislation with broad bipartisan support. In sharp contrast to the 105<sup>th</sup> Congress where President Clinton was unable to muster 40 Senate votes from his own party to enact fast track trade negotiation authority, the 106<sup>th</sup> Congress enacted significant legislation covering trade with China and with Africa, replaced the foreign sales corporation provisions, enacted legislation on tariffs, and even took the first steps toward addressing contentious issues, such as trade and labor. What brought this about? Strong leadership, consensus-building, manageable goals, and a willingness to set partisan concerns aside for the common good.

**Congress Will Enact Meaningful Tax Simplification.** I predict the 106<sup>th</sup> Congress's model for enacting trade legislation will serve as a blueprint for legislation in the 107<sup>th</sup> Congress, particularly in the area of tax simplification. Since sharply divisive positions have no prospect for enactment, that opens opportunities for limited, but much-needed and sensible reform of our nation's tax system. The Joint Committee on Taxation is expected to release its report on simplification early in 2001. The report will provide information on the extent of the problem, ideas from which we can work to achieve meaningful simplification, and an impetus for enactment of simplification legislation. Although working on tax reform in piecemeal fashion can be difficult, the 106<sup>th</sup> Congress's trade model indicates its effectiveness.

**Ending on a High Note.** One piece of simplifying tax legislation is likely to be enacted on the final day of the 106<sup>th</sup> Congress. Its enactment would be consistent with the trade model. That legislation is the reinstatement of

the installment sales method for accrual taxpayers, which was repealed late in 1999. The repeal generated a firestorm of protest, a number of bills, and hearings. The Tax Section testified at the hearings in support of a simple reinstatement of the method rather than the targeted reinstatement offered in some of the bills. If enacted today, the legislation will take the form of the simple repeal of the repeal for which we advocated, and our forceful advocacy of simplification will have helped to bring it about. From a tax policy perspective, the 106<sup>th</sup> Congress will have ended on a high note that could set the tone for tax legislation in the next Congress.

**Loss of Transparency.** The need for tax simplification is critical. The OECD (and the U.S. through its participation in the OECD) has for years urged nations to make their tax systems "transparent." The concept of transparency in administration of the laws entails a neutral application of the laws and regulations and certainty in application. It may be fairly said that our tax system runs afoul of the transparency concept because it has become so complex and is such a patchwork of targeted provisions that it is neither neutral nor certain in application. A large percentage of taxpayers rely on return preparers for the filing of even the simplest of returns. Why? For some, even the simplest return is too complicated. Others hold a genuine fear of the consequences that might follow a mistake. For many, however, the reason is a belief that other taxpayers have found ways to minimize their taxes of which they are unaware and that a return preparer will enable them to avail themselves of those tax minimization opportunities.

**The Corrosive Effect of Complexity.** The belief that the tax laws bestow on certain taxpayers opportunities to minimize their taxes has a corrosive effect on the tax system because taxpayers come to see the laws as unfair. The complexity in our

tax laws and its myriad targeted provisions contribute to taxpayers' concerns that somebody got something they didn't. This is a serious concern because research by social scientists suggests that, when it comes to complying with the law, the belief that the laws are legitimate and ought to be complied with has a stronger motivating effect than the fear of being caught. The potentially corrosive effect of our complicated tax laws alone suggests the need to address simplification in the coming legislative session.

*Serious Simplification Candidates.* Given the need for tax simplification, what should we look for in the 107<sup>th</sup> Congress? The best candidates for enactment include many of the provisions we, the AICPA Tax Division, and TEI put on our simplification top 10 list. They include:

- Repeal of the alternative minimum tax.
- Reform of the family status provisions.
- Marriage penalty relief.
- Estate and gift tax reform.
- Pension plan simplification.

There is bipartisan agreement on the need for change in these areas. If Congress focuses on the common ground, we will see the enactment of meaningful tax simplification in 2001.

Tax Administration Will Continue to Improve. A report on a recent study establishing that bread use is dangerous contained the following statistics:

- More than 98 percent of convicted felons are bread users.
- Fully HALF of all children who grow up in bread-consuming households score below average on standardized tests.

So what does this gag have to do with anything? It playfully reminds us of the ways in which statistics can be misunderstood and/or misused.

*What Enforcement Statistics Can't Tell You.* Much ink has been spilled recently on the decline in IRS' enforcement statistics. But like the bread user statistics, those statistics don't necessarily tell us much. Based

on our annual meeting with Commissioner Rossotti and his staff in November, we believe the IRS's retooling efforts will increase efficiency and effectiveness. With the reorganization in place, the IRS is refocusing its efforts from a back-end operation to a front-end operation. That is, more resources are going to helping taxpayers get it right when they file their returns, thus minimizing the need for the much more inefficient effort of correcting filed returns. One example: last filing season, the IRS met with thousands of tax return preparers to explain the law and answer questions. That upfront compliance effort doesn't show up in enforcement statistics, but it probably has a far greater impact on collection of the correct amount of tax than an equal number of audits.

We have been pleased to participate in the IRS's modernization effort since Commissioner Rossotti took the helm. With the reorganization and a number of pilot programs complete, the new operating divisions have turned their attention to implementation. To be sure, the IRS will find bumps in the road. Among them will be staying focused on the larger picture, ensuring measured responses, and appropriately allocating resources. Too much attention to relatively insignificant matters or implementation of win-at-all-costs strategies will leave the IRS without sufficient resources to address issues that really matter. Moreover, the IRS must affirmatively leave behind its old ways of doing business if it is to keep up with the pace of change in the economy today. Changing old ways is hard, especially for large organizations.

*The New Shelters.* One of the bumps is tax shelters, which will continue to be an issue for the IRS, but our meeting with Commissioner Rossotti convinced us the IRS is better prepared today to address the problem. Some anecdotal evidence suggests the recent spate of court cases denying the tax benefits of a

variety of shelter transactions has dampened the appetite for shelters in the corporate community. At the same time, however, there is growing concern about a perceived decrease in compliance in the individual and small and mid-size business community. Consequently, a reallocation of resources may be needed. When we met with IRS personnel, we found them focused on the issue. Some of their efforts—two significant summons enforcement cases—have already made headlines. So have several of the tax shelter rulings issued in the last several months. We expect these efforts to have a long-term, positive effect on tax compliance.

Pro Bono Publico Service Opportunities Will Increase. Ensuring the needs of low income taxpayers are met will be one of Chair-Elect Dick Lipton's themes for his year as Chair of the Tax Section. This is an area of particular interest to the IRS and we hope to work closely with them as we have on low income taxpayer clinic matters. We are working to increase the opportunities for pro bono service and putting in place a structure to advise tax lawyers of those opportunities.

I have written previously about the publication of our manual for low income taxpayer clinics. I want to thank publicly the individuals who contributed to completion of the manual. They include our authors—Jerry Borison, Nina Olson, Janet Spragens, Steven Anderson, Bill Elliott, Miriam Fisher, David Grossman, Marilyn Phelan, Gerry Kafka, Karen Kole, Robert McCallum, Bob McKenzie, Michael Mulrone, Karen Hawkins, Paula Junghans, Bob Wherry, Leslie Book—and our editors, Jody Brewster, Maureen Nelson, Troy Watkinson, Marc Gerson, Jessica Hough, Julia Kazaks, Thomas McGuire, Ken Shiu, Megan Christensen, Brian Eagan, Angie Pegram, and Becky Watt. Thank you! ■