

COUNCIL ACTIONS

by N. Susan Stone, Houston, Texas

The Council of the ABA Section of Taxation met on October 15, 2000, in Carlsbad, California immediately following the 2000 Fall Meeting of the Section in Los Angeles, California. The Council heard reports and took actions on the following topics:

EVENING RECEPTION TO REPLACE COMMITTEE CHAIRS AND VICE CHAIRS BREAKFAST

Pamela F. Olson, Section Chair, proposed that the traditional Friday morning breakfast for Committee Chairs, Vice Chairs, Section Officers and Council be replaced with a reception held on the Thursday evening preceding each Section meeting. Council considered the increase in attendance and committee officer interaction that would likely

result if the breakfast function was replaced with an early evening reception. After discussion, Council adopted the proposal. The first reception for Committee Chairs, Vice Chairs, Officers and Council will be held from 5:00 to 6:30 p.m. on Thursday, May 10, 2001, at The Grand Hyatt Hotel in Washington, D.C.

REORGANIZATION OF CERTAIN COMMITTEES

Don Korb, Vice Chair (Committee Operations), reported that the Closely Held Businesses Committee and the Personal Service Organizations Committee had agreed to merge to form a new committee named the "Small Business Committee". Council member Stanley Blend proposed that the Environmental Taxes Committee become a subcommittee

of the Natural Resources Committee. Council member Charles Egerton proposed that the LLC Task Force be merged into the Partnerships Committee. After discussion, Council approved all of the restructuring proposals to be effective on July 1, 2001.

SYMPOSIUM ON FUTURE OF THE PRACTICE IN BUSINESS LAW

Pam Olson proposed that the Section of Taxation co-sponsor a symposium with the Business Law and Real Property, Probate and Trust Sections of the ABA. The symposium, entitled the "Future of the Practice in Business Law," is expected to be held in March 2001. Council approved the Section's co-sponsorship of, and participation in, the symposium. ■

FROM THE EDITOR

by Ellen P. Aprill, Los Angeles, CA

The overwhelming sense I have from this issue of the *Newsletter* is that, in the field of tax law as in so much of life, we all gain a great deal when we communicate and work with each other.

Pam Olson strongly sounds this theme in "From the Chair." She calls upon members of both the House and the Senate to work together across party affiliation in order to accomplish anything meaningful. She urges the model of the trade legislation of the 106th Congress, achieved through "strong leadership, consensus-building, manageable goals, and

a willingness to set partisan concerns aside for the common good." As she explains, in the case of the tax law, the common good translates into simplification.

Ron Pearlman's interview also emphasizes the importance of collaboration and cooperation. In his distinguished career, Ron has worn many hats, IRS lawyer, private practitioner, Assistant Secretary for Tax Policy, Chief of Staff of the Joint Committee on Taxation, and law professor. His insider's account of the 1986 Tax Reform Act highlights how

bipartisan efforts made its achievement possible.

Both the substance and the source of this issue's Point/Counterpoint further this message. Each of the four contributions reflects on the need to achieve an accommodation between policy and politics. This Point/Counterpoint has its origin in one of my favorite modes of collaboration and cooperation—*taxprof*—, which is the tax professors' electronic discussion group. Through this resource, some 200 tax professors are able to talk to each other daily, expressing opinions and soliciting advice on a

wide array of topics about both tax and teaching. Last spring, one of the contributors to this issue's Point/Counterpoint asked about the current state of tax policy. The responses were so eloquent and thoughtful that I asked several of the participants to revise them for this publication.

Taxprof enriches the life of all of us who teach taxation in our law schools. I know that I am not alone in feeling personally quite bereft if my e-mail is down or I am out of town so that I am cut off from its help, wisdom, and camaraderie. We tax professors all owe a debt of gratitude to Professor Paul Caron at the University of Cincinnati College of

Law for his willingness and efforts to maintain this listserv.

In the *Newsletter*, the Points to Remember and Special Reports serve for our readers some of the same functions as *taxprof* does for its subscribers—helping us keep up with new developments. In this issue, Dianne Bennett gives us a fascinating look at some of the unusual employee benefits being offered in the marketplace. Of those she describes, I think pet health insurance may be my own favorite! Annette Nellen provides not only a review of recent new authorities, but also a handy checklist regarding capitalization versus expensing. Ed Polisher and Ed Kessel thoughtfully analyze the implication of the recent *Atkinson*

case regarding the administration of charitable remainder trusts. In a Special Report, Stuart Rader demystifies allocation of the GST exemption for lifetime transfers to trusts.

Communication, of course, does not always produce agreement, as demonstrated by the exchange between Mitchell Miller and David Silverman on installment sales to defective grantor trusts or by the letter from Tax Section Chair Pam Olson to ABA President Martha Barnett regarding positions of the ABA. Without such exchanges and willingness to learn from each other, however, agreement will never be possible. May we in the Tax Section continue to learn from each other. ■

MEMBERS REACT TO **ABA** **JOURNAL ARTICLE**

The following letter is excerpted from an e-mail from Tax Section Chair Pam Olson to ABA President Martha Barnett in reaction to the December 2000 ABA *Journal* cover story, "Where Will They Go?," concerning the Palestinian refugee right to return campaign.

Dear Martha:

The December *Journal* article has certainly caused a firestorm of protest. I appreciate the steps that have been taken to address the apparent one-sidedness of the article. I am writing because I wanted you to be aware of a more fundamental issue that the article appears to have brought to the surface. That issue is a current of general dissatisfaction with

ABA policies among some of our members. I have copied here for your information an e-mail from Michael Shaff, a long time Tax Section member, about his concerns with the ABA. Mr. Shaff writes:

"I have been a section member for 20 years. In that time I have been a committee member (Financial Transactions for the last seven or eight years) and have participated in the FASIT regulation project and on the family partnership ruling project for the Partnerships committee about 12 years ago. I have always appreciated the *Tax Lawyer* publication and the quarterly newsletters."

"Of late, I have become increasingly more intolerant of the political positions taken by the ABA house of delegates and the positions espoused

in the ABA *Journal*. My partners have let their ABA memberships lapse, and only one of our five associates remains an ABA member. Positions on abortion, capital punishment and the Middle East set forth in the ABA *Journal* recently are not in line with my views or even with the views of most Democrats, I dare say....The ABA risks being marginalized into a left wing lobby. Being a member of the tax section of the National Lawyers Guild would have no appeal for me. The NYSBA tax section probably carries more weight than the ABA tax section in Washington these days, and the situation is likely to deteriorate under the new Administration. I call upon you to publicly advocate to the ABA leadership a moderation of the views