

# PRO BONO UPDATE: **NEW PRO BONO COMMITTEE FORMED**

by Richard M. Lipton, Chicago, IL

One of the priorities of my term as Section Chair was to focus on pro bono activities. The current Chair, Herb Beller, has asked me to maintain this focus by heading up a new Pro Bono Committee. I wanted to tell you briefly about the proposed activities of this new committee.

The first meeting of the Pro Bono Committee will be held in conjunction with the Tax Section's meeting in San Antonio in January 2003. The Pro Bono Committee will meet on Saturday, January 25, 2003, at 7:15 am; breakfast will be served. The focus of the meeting will be coordinating the activities of the committee.

I anticipate that there will be two major initiatives undertaken immediately by the Pro Bono Committee. The first involves VITA training. Many tax

lawyers would be willing to devote their time and efforts to help less-fortunate individuals prepare their income tax returns. However, most of us have not been trained to do so. To resolve this issue, we are working on obtaining assistance from the Service in providing training (in a 3-hour course) at the meeting in San Antonio; tentatively, we have scheduled training programs on Saturday morning and afternoon in San Antonio. The exact time and place for this training should be covered in the next issue of the *NewsQuarterly*. Once training of Tax Section members is completed, we expect to utilize the Tax Section website as a means to inform members of opportunities to assist in tax return preparation services on a pro bono basis in their communities.

Second, we will be contacting low income taxpayer clinics (LITCs) from around the country in order to determine which ones would want to undertake a mentoring program at the LITCs (or, where appropriate, having Tax Section members actively involved directly pro bono in disputes). Again, if and when any LITCs express interest, this information will be made available through both the *NewsQuarterly* and the Tax Section website.

We also recognize that neither Council nor the Pro Bono Committee will have a monopoly on ideas. If any of you have a suggestion for additional pro bono activities in which Tax Section members could be involved, please e-mail me at [RLipton@mwe.com](mailto:RLipton@mwe.com). ■

## POINTS TO REMEMBER

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insurance companies of premium payment requirements in this context (each premium payment arguably being treated as a “new”, post July 30 loan), indicate that “fixing” this problem may not be quick or easy. Publicly traded employers should consider not paying the premiums on policies for directors and executive officers under collateral assignment arrangements until the rules are clarified.

Those who must address existing split dollar arrangements would be well-advised to wait. First, the rules are not clear. The Service has kept up its steady stream of pronouncements, including Notice 2002-59, discussing the tax implications of reverse split dollar and private split dollar arrangements. But many questions remain unanswered. In addition to some mentioned above, issues remain on how to

analyze co-owned policies and how to value the benefit in an endorsement policy, for example.

Second, insurance companies must run calculations for employers and executives to determine tax and economic consequences of the different treatments (including a possible roll-out of existing equity). Then employers and executives need to decide which treatment they will agree to use and who will bear the cost of the additional tax. There may be a provision in the documents that provides an answer. One thing is clear: employers and executives should not modify existing arrangements if at all possible. A “material modification” could result in taking the arrangement out of the favorable transition rules.

With respect to new split dollar arrangements, again employers and executives alike would be well-advised to wait and see. The employer who has promised executives this type of arrangement, or historically has offered it to executives reaching certain levels and ages, can calculate the cost to the executive of waiting and can pay that amount in a bonus, if need be.

What is clear is that the landscape for split dollar life insurance arrangements has changed dramatically, and that the ground continues to shift under our feet. Employers as well as employees should have an understanding of all the rules, pay careful attention to the development of the final regulations, and exercise caution in taking any steps to change or enter into new arrangements at this time. ■