American College Supports Proposal To Modify Withholding For Household Employees.

MAR. 15, 1993

SUMMARY BY TAX ANALYSTS

Richard E. Thigpen of the American College of Tax Counsel has written in support of section 901 of H.R. 13, relating to the withholding of Social Security and Medicare taxes on wages paid to household employees.

====== SUMMARY ======

Richard E. Thigpen of the American College of Tax Counsel, Washington has written in support of section 901 of H.R. 13, relating to the withholding of Social Security and Medicare taxes on wages paid to household employees. According to Thigpen, the proposal greatly simplifies the onerous filing requirements and will encourage voluntary compliance by both the employer and employee.

====== FULL TEXT ======

March 15, 1993

The Honorable Leslie B. Samuels
Assistant Secretary-Designate (Tax Policy)
U.S. Department of the Treasury
1500 Pennsylvania Avenue
Washington, DC 20225

Dear Mr. Samuels:

The American College of Tax Counsel is an organization of tax attorneys interested in tax policy and the administration of our tax laws. The attached one-page summary describes the history and some of the activities of the College.

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Frequently taxpayers are prone to criticize proposed tax legislation and overlook some of the positive proposals which might need some support for adoption. Section 901 of H.R. 13, a copy of which is also attached, relating to the withholding of social security and medicare taxes on wages paid to household employees is a positive proposal which should be enacted. The ACTC is very much in favor of legislation like Section 901 for many reasons including the following:

1. The proposal greatly simplifies the onerous filing requirements associated with the payment of social security and medicare taxes on household employees.

2. The proposal is revenue neutral at worst and probably produces some additional revenue by including estimated taxes on household employees in quarterly estimates.

3. The IRS will save money in the administration of those provisions relating to taxes on household employees by eliminating the filing and processing of literally millions of forms.

4. The proposed legislation would encourage greater voluntary compliance by both employer and employee. Our system of taxation is based on voluntary compliance which is difficult to maintain when laws are unnecessarily complicated and burdensome.

Because we have outstanding tax practitioners from each of the federal judicial districts as members of our Board of Regents and because Fellows of the College reside in all 50 states, the ACTC is in a position to support the efforts of those in Congress who seek the enactment of Section 901. This support, if desired, can consist of the development of grass roots support in every state and testimony if additional hearings are held on the bill.

If the American College of Tax Counsel can be of assistance, please let me know.

Sincerely,

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Richard E. Thigpen, Jr., President
American College of Tax Counsel
Washington, DC

AMERICAN COLLEGE OF TAX COUNSEL

The American College of Tax Counsel was organized in 1980 as a 601(c)(6) nonprofit corporation. Its purposes ". . . are to foster and recognize excellence and to elevate standards in the practice of the profession of tax law; to stimulate development of skills and knowledge through participation in continuing legal education programs and seminars; to provide additional mechanisms for input by tax professionals into the development of tax laws; and to facilitate scholarly discussions and examination of tax policy issues."

The College currently is composed of 530 Fellows and is governed by a Board consistent of one Regent from each federal judicial circuit and one Regent at large, a total of thirteen.

To be eligible for membership an individual must have been admitted to the practice of law for at least 15 years and currently be engaged fulltime in or be retired or semi-retired from legal work, either in private law practice, in a corporate legal department, in a governmental legal position, or in a law school teaching position, and the principal part of his or her professional time must be or have been during active practice devoted to tax and tax related matters.

To be selected for membership an individual who is otherwise eligible must be nominated by a Fellow and the Board must determine that he or she has maintained a high standard of excellence and ethical performance in the practice of tax law and has demonstrated an exceptional degree of professional commitment to such practice by one or more of the following:

1. Activities involvement with the work of the Tax Section of the American Bar Association.

2. Activities involvement in planning and/or speaking in tax seminars and programs.

3. Holding office in tax committees or sections of regional,

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state and local bar associations.

4. Significant legal writing and/or teaching in the field of taxation.

5. Holding responsible office involving tax administration with the federal government.

A principal activity of the College is publication of the American Journal of Tax policy, a semi-annual publication of articles examining issues of tax policy. The College is also the founder and sponsor of the American Tax Policy Institute, (ATPI) a 503(c)(3) organization located in Washington. In 1992, the ATPI co-sponsored a seminar in Washington on the Tax Legislative Process. In October of 1993, the College will sponsor a conference on Professionalism In the Tax Practice. There is also an active committee on State and Local Tax Policy. When appropriate, the Chairman of the Board of Regents provides testimony to Congress on issues of tax policy.

TITLE IX. ADMINISTRATIVE PROVISIONS

A. GENERAL PROVISIONS

1. SIMPLIFY EMPLOYMENT TAX REPORTING FOR HOUSEHOLD EMPLOYEES (SEC. 901 OF THE BILL AND SECS. 3102, 3121, 3306 AND 6654 OF THE CODE)

Present Law

An employer who pays a household employee wages of $50 or more in a calendar quarter for household work must withhold social security taxes (including medicare taxes) from wages paid to the employee during the quarter. The employer must also pay an amount of tax that matches the tax withheld from the employee's wages. The employer must file an Employer's Quarterly Tax Return (Form 942) each quarter and a Wage and Tax Statement (Form W-2) at the end of the year.

In addition, an employer must pay Federal unemployment taxes if he or she paid cash wages to household employees totalling $1,000 or more in a calendar quarter in the current or

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preceding year. The employer must file an Employer's Annual Federal Unemployment Tax Return (Form 940 or Form 940-EZ) at the end of the year.

Reasons for Simplification

Employer return requirements are confusing and burdensome for many individuals, who may be employers only because they employ a domestic employee on an intermittent basis. Streamlining the return requirements would reduce the filing burden for individuals employing domestic employees.

Explanation of Provision

The bill changes the threshold for withholding and paying social security taxes with respect to domestic service employment from $50 a quarter to $300 a year. The bill requires an individual who employs only household employees (regardless of the amount of the remuneration) to report any social security or Federal unemployment tax obligation for wages paid to such employees on his or her income tax return for the year. The bill includes a household employer's social security and unemployment taxes in the estimated tax provisions. The bill also authorizes the Secretary to enter into agreements with States to collect State unemployment taxes in the same manner.

The bill provides that the Secretary may prescribe such regulations as may be necessary or appropriate to carry out the purposes of this provision. These regulations may treat domestic service employment taxes as taxes imposed by chapter 1 of subtitle A for purposes of coordinating the assessment and collection of domestic service employment taxes when the assessment and collection of domestic employers income taxes.

Effective Date

The provision is effective for remuneration paid in calendar years beginning after December 31, 1993.

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