

## From the Editor:

### Looking Back, and Ahead

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Father Time has handed over his duties to Baby New Year just as President Bush prepares to hand over his duties to President-elect Barack Obama. Let's look back at 2008 and what it meant for tax practice and policy — and then ahead at what the future has in store.

2008 was a great year for the IRS. Its processing of stimulus checks was a success (p. 39); it won several tax shelter cases involving both leasing shelters and son-of-BOSS transactions (p. 33); it issued the return preparer penalty regulations even after a last minute-change in the law (p. 35); and it obtained criminal convictions against shelter ring-leaders John Larson, Robert Pfaff, and Raymond Ruble (p. 42). 2008 was a busy year for Congress, too; surprisingly, it tacked the bailout legislation onto the tax extenders bill. For a review of all things congressional in 2008, turn to p. 30. Treasury — as I've pointed out many times in this column — has been a little too busy. For a year in review article on Treasury guidance, see p. 47.

Now let's look ahead. Given the changeover in administration and the inevitable stimulus legislation, new tax policy is on the horizon. Obama will lead the charge, and Congress will follow.

What will Obama do? He has promised change, and David Cay Johnston tells him where to begin. While most can deduct medical expenses that exceed 7.5 percent of their AGI, under the AMT the threshold is increased to 10 percent. Johnston thinks Obama should push for a repeal of this aspect of the AMT right away (p. 145). Although Johnston is right, my guess is that we will see a payroll tax holiday before we see any kind of AMT reform. And it

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could happen soon. According to a top adviser, Obama will push for middle-income tax cuts in the coming stimulus legislation (p. 16).

Congress has its own ideas regarding tax provisions in the stimulus legislation — for better or for worse. Why do I say for better or for worse? Because ad hoc tax policy is not a good thing. Change is needed, and is on its way, but whether tinkering with the tax code through hastily enacted legislation will work out is something that only time will tell.

Lee Sheppard and Martin Sullivan write about a change I don't want to see in stimulus legislation (or any legislation, for that matter) — the revival of section 965. Multinational companies are busy here in Washington pushing their favorite tax reduction repackaged as a cure for the asserted liquidity crisis. They argue that section 965, the provision allowing a one-time, low-rate repatriation of foreign profits, should be revived to provide big companies with liquidity. Apparently there is talk of adding such a provision to the stimulus bill. That is ridiculous. Section 965 was a mean joke the first time around when it was sold as a job-maker. Want to know what Sheppard and Sullivan think? Turn to p. 7.

#### Commentary

In a special report, Paula Singer addresses the practical considerations for simplifying America's

## WEEK IN REVIEW

income tax system. She discusses how simplification can evolve out of the current system through proposals such as allowing dividends to be deducted by corporations, introducing a return-free system for most taxpayers, and eliminating deductions and credits by solving social problems through direct programs (p. 79). Martin Lobel says that it is time to develop a worldwide combined reporting system that would eliminate most leakage to offshore tax havens, level the playing field between domestic and multinational corporations, and allow us to use the increased revenue to lower corporate rates (p. 109). Robert Wood examines section 468B, concluding that as long as the single-claimant controversy remains unresolved, a QSF

should be established with more than a single claimant (p. 71). Adriel Zupances examines the *Swallows Holding* case, concluding that the district and appellate courts should have applied both *National Muffler* and *Chevron* (p. 93). Robert Casanos analyzes the conventional approaches to structuring loan funds with offshore investors, concluding that they result in little if any revenue. He proposes that a new type of special purpose tax-favored entity be considered (p. 111). Charles Bruce makes sense of the new Liechtenstein-U.S. TIEA on p. 140, and Robert Willens looks at midco transactions on p. 147. And finally, we have some tax humor this week: poems by Mordy Mandell (p. 149) and Robert P. Rothman (p. 151). ■

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