

### TAX DAY

Mike McIntyre, Jason Reschly, and Tony Burrell conducted a 4-hour Principles of Cooperative Taxation Seminar.

For those not attending the above seminar, the morning session covered the following speakers:

Elizabeth Paris, Tax Counsel to the Senate Finance Committee, opened the general tax session with an overview of the work Congress is doing with **Subchapter T**. She indicated, for example, that where legislation is being crafted dealing with tax credits. They are looking to provide pass-through provisions for cooperatives. She went on to describe the progress of the ETI (Extraterritorial Income exclusion) repeal and replacement legislation. The Senate version would provide for a tax benefit for domestic manufacturers. The bill also includes relief from the dividend reallocation rule. The Senate bill will have to be reconciled with the House version.

Next up was a panel discussion of **how to plan and manage book vs. tax differences**. Wayne Sine, Dave Antoni, Ed Bercot and Greg Taylor analyzed numerous differences, including a discussion of the book and tax accounting treatment for each.

Dick Cisne next described the process of **converting a cooperative to an LLC**. He discussed the tax as well as the non-tax implications of such a conversion and whether such a conversion could reduce the tax cost of the application of the dividend allocation rule. He also reviewed an actual example of such a conversion.

Gary McDavid provided the background leading up to the **current dividend allocation rule**, including examples of the application of the rule. He went on to discuss what cooperatives will need to do in anticipation of Congressional relief from the rule.

The afternoon opened with a choice of either the Small Cooperative Roundtable or the Hot Topics for Large Cooperatives Roundtable.

**Hot Topics for Large Cooperatives.** A panel comprised of Larry Boeshart, Kevan Acord, Teree Castanias, Gary McDavid and George Benson discussed a range of issues including: recently issued IRS letter rulings addressing Farmland's handling of its losses; recent court cases that could have implications for deferred crop payment contracts; and issues related to the patronage vs. nonpatronage classification of items of income.

Dale Carlson, Dwayne Campbell, Mike McIntyre, Tony Burrell, Ed Bercot led the **Small Cooperatives Roundtable** discussion. Among the topics discussed were 1) Non-qualified notices of allocation from both tax and financial statement perspectives, 2) capitalization of equities related to Farmland bankruptcy, 3) how much money can you retain from patronage.

The next session included George Benson's annual update of **current tax developments** with respect to cooperatives while Marlis Carson, Vice President for Legal Tax and Accounting of the NCFC, gave an **update on the activities of the NCFC**.

The final session of the day included a report by Teree Castanias on the **IRS Subcommittee's Annual Member's Survey**. Alexa Claybon from KPMG's Denver office provided an overview of new regulations covering the **capitalization of intangible assets**. In addition, she gave an overview of the latest guidance from the IRS regarding whether certain **changes in depreciation** were accounting method changes. This guidance comes in the form of final, temporary and proposed regulations as well as a revenue procedure.

### A Brave New World – The Changing Role of the CFO and Controller

**Brian P. Jackson – Executive VP and CFO, CoBank**

As the financial world has changed, so has the role of the CFO and the Controller. In the 1980's, business was done the old fashioned way with substance over form. The 1990's were the GO-GO years with a short term focus for business and the introduction of derivatives. The 2000's began with the Great Unwinding where we saw business failures, lack of oversight, and the Sarbanes-Oxley Act of 2002. Through all of this, the CFO and the Controller had to adapt.

In the current environment, the CFO now has to deal with more accountability and criminal liability if not in compliance with laws, accounting rules and government regulations. Audit committees are now taking on the oversight role and the CFO needs to insure transparency with the CEO and audit committee. The Controller's new focus is on internal controls and he/she has to deal with more complex accounting rules. The required disclosures are increasing and all of this is impacted by increased resource demands.

But all is not lost. Cooperatives need to get back to the basics and understand the businesses that they are in. Good internal controls and the right resources will allow the CFO and Controller to better function in the current business environment.

### Current Human Resource Issues

**Carrie A. McAtee, Associate, Shook, Hardy & Bacon L.L.P.**

Carrie, whose specialty is National Employment Litigation and Policy, had three main points of focus in her message.

1. New Rules Regarding Overtime. She discussed various changes in the rules regarding who is entitled to overtime and who is exempt. She pointed out that employees making *less than* \$455/week or \$23,650/year can never be exempt.
2. Uniformed Services Employment and Re-employment Act (USERRA). Carrie noted that this Act was spawned by 'Desert Storm' and protects employees called into active duty in time of war or national emergency. Among other things, the Act provides up to 5 years of unpaid leave and applies to all employers regardless of firm size.
3. Health Insurance Portability and Accountability Act (HIPPA). Discussion centered on who the law applies to as well as what information may be disclosed and to whom.

### Exceeding Your Cooperative's Expectations

**David R Parker**

More and more coops are looking to external expertise for advice and guidance when it comes to making decisions that help build a profitable and sustainable business. Your expertise can be invaluable and your biggest challenge will be to position the value of your expertise by learning as much as you can about how cooperative business operates. This session is designed to get you thinking differently about the value you bring. In the session David Parker explored:

- Three fundamental cooperative business models
- Cooperative business strategies
- How to create a consultative relationship
- Extending the use of information in making business decisions

As advisors to management and the board of directors, whether we work for the coop or are consultants, the work we do drives the decisions made by them. We need to be responsive, timely, problem solvers, and offer quality work. We need to be able to understand the customer's business and identify/clarify needs; suggest, evaluate, and help choose and implement the best solutions. The key to success is to be committed and creative at all times. As management employees or consultants we have to operate from a position of honesty, integrity and ethics.

### FASB PRESENTATIONS

Continuing with a focus started three years ago, this year's technical program featured presentations from the FASB's national staff. For the past few years, cooperatives have been highly concerned about the direction accounting standards have taken in the areas of equity vs. liabilities and business combinations. This year, the FASB sent a separate speaker for each topic. See summaries below and also look for full coverage of both presentations in the next issue of *The Cooperative Accountant*.

**Brooke E. Richards, FASB Project Manager on the Equity and Liabilities project**, covered reasons for the project; project objectives; classifying the related financial instruments; Statement 150; why certain provisions of 150 were deferred; examples; cooperative issues; and the next phases of the project. Bottom Line: While the deferral of certain provisions of Statement 150 was a temporary reprieve for coop concerns, no permanent protection is guaranteed. However, upcoming deliberations may be fruitful, so our continued attention to this project is vital.

**Alicia Posta, FASB Assistant Project Manager, provided an update on Combinations Between Mutual Enterprises** which covered: impact of Statement 141; examples of mutual enterprises (including cooperatives); a project overview; project objectives; scope of the project; decisions reached; and expected issuance of a new Statement. Bottom Line: It appears that we will no longer be allowed to use the "pooling of interests" method to account for coop mergers – we likely will have to use the "purchase" method.

### The Future of Auditing Standards

**Charles (Chuck) E. Landes, Director, AICPA Audit and Attest Standards Team**

Chuck's presentation focused on 3 key points:

- Discussion of the standard setting environment and reconstitution of ASB.
- Discussion of recent audit and non audit standards as well as the activities of the ASB.
- Discussion of recent nonauthoritative activities and obtain an understanding of guidance available to assist practitioners in improving the effectiveness and efficiency of their engagements and practices.

Chuck discussed closing expectations gaps: 1) Standards vs. Expectations Gap where required standards (professional and other) do not meet constituents' expectations, and 2) Performance vs. Standards Gap where auditor performance does not meet requirements set forth in regulatory, professional, and other relevant standards.

He ended his presentation with these recommendations on what CPA firms should focus on:

1. Foster a firm culture of integrity and ethics that must come before firm profit.
2. Put into place partner compensation systems that reward audit partners first and foremost for quality of work.
3. Do not punish partners for walking away from clients who are unethical.
4. Enhance auditing procedures, including CAATs to detect fraud.
5. Do a better job of exercising professional skepticism.
6. Get away from connect the dots auditing and back to basic understanding of risks and tailored procedures.

### The Hootie-Hoo Attitude

**Dr. Dale Henry, Your Best Unlimited**

Dr. Henry, a diminutive southern humorist with a big message, gave a great motivational talk that was very inspiring. He exhibited a southern down home delivery that was humorous and thought provoking. His central theme was that we should all be honest with our interpersonal relationships and strive for excellence.

During the program Dr Henry asked and answered the questions: "How do we become better team members; how do we become more valuable to our organization; how do we remove ourselves from the box; and how do we build high esteem." He offered that it all depends upon attitude. It's the single most driving force in the universe for getting where we want to go. Everyone wants to be a valuable commodity and the "Hootie-Hoo" Attitude will



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supply you with necessary tools to break down our own self-imposed obstacles revealing the value within us all. He reminded us, "If you always do what you always did, you'll always get what you always got."

Since employees with a good attitude are more productive, we should do what we can to infect others with a contagious "hootie-hoo" attitude. Dr. Henry encouraged us to AIM high by using a three-step process: Assessment (determine what we could do better), Innovation (focus on how we could be different), and Motivation (actually do something about it). The true way to learn something is not just to hear it or see it, but to apply it. After his presentation Dr. Henry remained available to offer and sign copies of his latest book titled "The Proverbial Cracker Jack: How to get Out of the Box and Become the Prize."

### **Making Ethics Count**

**Dan Chenoweth, President, MBA/CPA**

We have been bombarded in the last couple of years with corporate scandals resulting in re-statement of financials for some companies, bankruptcy for others. One of the largest and most prestigious CPA firms, Arthur Andersen, was implicated in the Enron case and ceased operations. How did the accounting profession get to this point? What are we doing about it? What can you personally do to live up to the ethical values you expect from others? Dan's presentation dealt with these and other questions. The primary focus of his talk was to:

- Help CPAs / accountants understand the importance of ethics in their personal and professional behavior to build credibility for the profession as a whole.
- Provide guidelines on how CPAs / accountants can create an environment for ethical behavior in their own businesses.

This presentation was very timely and highly rated by our members.

### **Uniform Cooperative Law Project**

**Daniel C. Mott, Officer, Fredrikson & Byron's Corporate Group**

Daniel gave a very informative presentation on the current process of developing a uniform National Cooperative Law. Daniel is a current NSAC member and is also a representative of NCFC's LTA committee.

The process began in 2000 with NCFC beginning this structure process. The established goals are:

- Identify ways to keep cooperatives viable and an attractive business entity.
- Take advantage of the new LLC structure in building cooperatives.
- As cooperatives form under LLC statutes, avoid having the essential nature of the cooperatives vanish.

NCCUSL established a 10 member committee to draft a Uniform Law for Agricultural Cooperatives to provide options/opportunities for producers. The committee timeline is to complete this process in September 2005. The first reading of the proposal was on August 4<sup>th</sup>. Many redrafts will occur with the 2<sup>nd</sup> reading August 5. George Benson, NSAC member, is on the special working group assisting with this process.

The advantages of a uniform law are to provide a consistent approach to new venture cooperatives and to provide a 'controlled' approach to the development of New Venture Cooperative Law. This uniform law should supplement, not replace, existing cooperative law. Daniel then provided a very good detail of the proposed first draft of the law.



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### Washington Update

**Jeannine Kenney, Vice President, Public Affairs and Member Services, National Cooperative Business Association**

Jeannine focused on non-legislative issues facing cooperatives that NCBA is dealing with. NCBA was formed in 1916 and looks to serve the 20,000 cooperatives in the United States, of which approximately 10% are agricultural cooperatives.

NCBA is forming a co-op finance and tax council as a cross-sector network and policy development committee to initially focus on tax, structural and accounting issues as they impact cooperatives. Jeannine then spoke to these tax, structural and accounting issues.

### Where do we go from here? An Economic Outlook

**Dr. Steven R. Wood – President and Chief Economist, Insight Economics, LLC**

Dr. Steven A. Wood founded his economic consulting firm in 2003 to specialize in macroeconomics and financial markets analysis.

Dr. Wood's overview is that the economy is growing strongly. Economic growth has rebounded and job creation has resumed with strong support from low interest rates, massive fiscal stimulus (i.e. tax cuts), and a weakening dollar.

The outlook is for further solid growth. Real wage incomes are climbing and consumers are feeling better about the economy. Corporate profits are soaring leading to faster capital spending. Inventories are extremely lean and will be rebuilt. Growth is also accelerating around the world so exports are zooming and the weak dollar helps this.

Inflation worries are overblown. Although inflation has accelerated, pricing power is severely squeezed. Productivity remains very robust so labor cost pressures are minimal. Dr. Wood stated that the biggest worries about the current situation are terrorism, high oil prices, highly indebted consumers, and a housing bubble.

Dr. Wood's outlook is for interest rates to rise at a measured pace and improvement in the equity markets while the dollar continues its decline. He expects the economy to expand moderately with solid growth through next year and inflation to rise moderately. How will all of this affect the election this fall? Dr. Wood feels that is simply too close to call.