

HULSHOF, SHAW, and NUSSLE legislation that would repeal a number of limitations contained in the consolidated return provisions of the Internal Revenue Code. These limitations, originally enacted in 1976, are a relic from a time when the financial markets were highly regulated and financial institutions were taxed very differently than they are today. The limitations serve no good purpose and yet they complicate the tax code for both the taxpayer and the Internal Revenue Service and they place affiliated corporations that include life insurance companies at a competitive disadvantage relative to other corporate groups.

I had hoped we could have addressed this problem long ago, and indeed, much of the bill I am introducing today was included in the 1999 tax bill vetoed by President Clinton. It is my hope that we can focus our attention on this problem again this year, either in the context of a tax simplification effort, an income tax system maintenance effort, or as part of tax relief for business.

BACKGROUND

The consolidated return provisions in the tax laws were enacted so that the members of an affiliated group of corporations could file a single tax return. The right to file a "consolidated" return is available regardless of the nature or variety of the businesses conducted by the affiliated corporations. The purpose behind consolidated returns is simply to tax a complete business entity and not its component parts individually. It should not matter whether an enterprise's businesses are operated as divisions within one corporation or as subsidiary corporations with a common parent company. If the group is one economic entity, it should be taxed as a single entity and file its return accordingly.

Corporate groups that include life insurance companies, however, are denied the ability to file a single consolidated return until they have been affiliated for at least five years. Even after groups with life insurance companies are permitted to file on a consolidated basis, they are subject to two additional limitations that do not apply to any other type of group. First, non-life insurance companies must be members of an affiliated group for five years before their losses may be used to offset life insurance company income. Second, non-life insurance affiliate losses (including current year losses and any carryover losses) that may offset life insurance company taxable income are limited to the lesser of 35 percent of life insurance company taxable income or 35 percent of the non-life insurance company's losses.

The historical argument against allowing life insurance companies to file consolidated returns with other, non-life companies was that life insurance companies were not taxed on the same tax base as non-life companies. This argument is unfounded today. Prior to 1958, life insurance companies were taxed under special formulas that did not take their underwriting income or loss into account. Legislation enacted in 1959 took a major step toward taxing life insurance companies on both their investment and underwriting income. In fact, at the same time the present rules were under consideration in 1976, the Treasury Department took the position that full consolidation was consistent with sound tax policy.

In 1984 and 1986, Congress reviewed the taxation of life insurance companies and made

a number of substantial changes that have resulted in these companies paying tax at regular income tax rates on their total income. Today, life insurance companies are fully taxed on their income just like other corporations. There is no reason to treat them differently today, especially with respect to consolidation.

THE PROBLEM

The current restrictions place affiliated groups of corporations that include life insurance companies at a competitive disadvantage compared with other corporate groups and also create substantial administrative complexities for taxpayers and for the Internal Revenue Service. The five-year limitations, in particular, create irrational disparities between groups containing life insurance companies and other consolidated groups. For example: First, when a consolidated group acquires another consolidated group that includes a life insurance company member, the acquired group is deconsolidated. This means that, unlike other groups, intercompany gains in the acquired group would be recognized as current income while losses would continue to be deferred.

Second, for the five year period following a consolidated group's acquisition of a life insurance company, gains on any intercompany transactions are subject to current tax and cannot be deferred. However, gains of other groups that are allowed to file a consolidated return are allowed to be deferred.

Third, section 355 spin-off transactions raise questions concerning the five year ineligibility period for the spun-off company even if the group had existed and been filing a consolidated return for many years.

The ability to file consolidated returns is particularly important for affiliated groups containing life insurance companies. Many corporations in other industries can, in effect, consolidate the returns of affiliates by establishing divisions within one corporation, rather than operating as separate corporations. Unfortunately, state law and other, non-tax business considerations generally require a life insurance company to conduct its non-life business through subsidiaries. The inability to file consolidated returns thus operates as an economic barrier inhibiting the expansion of life insurance companies into related areas.

SOLUTION

There are no sound reasons to deny affiliated groups of corporations including life insurance companies the same unrestricted ability to file consolidated returns that is available to other financial intermediaries (and corporations in general). Allowing the members of an affiliated group of corporations to file a consolidated return prevents the business enterprise's structure, i.e., multiple legal entities, from obscuring the fact that the true gain or loss of the business enterprise is the aggregate of each of the members of the affiliated group. The limitations contained in present law are so clearly without policy justification that they should be repealed.

The legislation we are introducing today will repeal the two five-year limitations for taxable years beginning after this year. For revenue reasons, the legislation will phase out the 35 percent limitation over seven years. This bill should be part of any simplification or tax relief legislation that may be enacted.

ORGAN DONATION

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 7, 2001

Mr. ISRAEL. Mr. Speaker. So that New York States' recently established Organ and Tissue Donor Registry might be better publicized and promoted,

And so that the public might be better educated on the dire need for organ donation,

I will enter this inspiring article about New York State Assemblyman Jim Conte in the CONGRESSIONAL RECORD.

JIM CONTE LEADING TO MAKE A DIFFERENCE

(By Cheryl Johnston)

While he routinely makes a difference in the lives of many people in the state of New York, Jim has the greatest impact on four particular people who live in the town of Huntington Station—his wife Debbie and his children Sarah, Jeffrey, and Samantha. In the ups and downs of political life, it is Jim's family which keeps him anchored. He knows they're most important in life.

Jim got sick before he met Debbie, when he was in his first year of college. Because he'd always been healthy, he was surprised when his doctor said glomerular nephritis was responsible for his swollen feet and sent him home from school. Jim missed more than half of that freshman year, but his health stabilized again. He resumed his studies, acquired an internship with the New York State legislature in Albany and completed his degree in economics. Life was on a roll again.

After graduation, Jim returned to Albany to work in various positions in government, including working for Assemblywoman Toni RettaIiata. When she sought another office and won, Jim decided to run in the special election for her Assembly seat. He had just one month to campaign and give it his all. He attended campaign events and walked door to door to meet the Long Island constituents. He worked from sun up to sun down, ignoring the fact that he was retaining fluid and that he had a chest cold he couldn't seem to shake. Before the election even took place, he ended up in the hospital with kidney failure and pneumonia.

Debbie, who was dating Jim then, remembers: "I was shocked to see how quickly he had become run down. His breathing was so labored that I could actually hear it from down the hallway. He was very weak and his color was bad. He hadn't urinated for a couple of days. We got him to the hospital, where he was intubated immediately. He came close to dying. With the special election underway, he'd just kept going and going. His health had taken a back seat—and he almost paid with his life. Ever since, his priorities have changed. Now he pays attention to his health."

While Jim was in the hospital, people in his party, community, and family rallied around him, carrying on the campaign without him. "I still remember walking into the headquarters, knowing they had pulled me through. It was a wonderful feeling."

The feeling was wonderful and the win exciting, but Jim's health was another story. He was on hemodialysis and very weak, but if he wanted to hold onto his new position of Assemblyman, he couldn't take a break. The next regular election for his seat was only eight months after the special election. He

put in long hours both as an assembly and as a candidate, fitting in dialysis sessions either early in the morning or in the evening.

When his healthcare team initially mentioned a transplant Jim was cautious but, after consideration, he agreed to the procedure. Only six weeks after his name was placed on the list at Albany Medical Center, a matching kidney was available. In March of 1989 he received a donor kidney and recuperated well. He had a 13-day hospital stay, which included a small bout of rejection. To the amazement of his colleagues in the Assembly, Jim returned to the legislative chambers by budget time in April.

Jim later found out that his donor was a young woman named Ashley. "In the midst of that family's suffering, with the loss of their wife and daughter, they made the decision to donate. For that, I'm eternally grateful." He later showed his gratitude by giving his first daughter the middle name "Ashley."

It didn't take long for him to gain back his strength and continue his productive life. And six months post-transplant, Debbie and Jim got married. Debbie had a special perspective of the medical challenges Jim faced because she was a pharmacist and also because brother-in-law, Donald, had received a successful heart transplant six years earlier. This knowledge enhanced Debbie's ability to support Jim as a wife and helpmate.

In 1991 they had Sarah Ashley. Two years later they were blessed with the birth of their second child, Jeffrey. But the tide turned less than two months later, when Jim's nephritis returned. With weeks, by mid-August of 1993, Jim's transplanted kidney was failing and he was back on dialysis.

Jim was put on the transplant list, but this time his wait was 18 months. During the difficult wait, Jim kept up his regular work schedule. While the legislature was in session, he went to early morning dialysis sessions with a fellow Assemblyman, Angelo DeToro from Spanish Harlem, and then returned to the Assembly. "The two of us put human faces on the organ shortage problem. We made others in New York's state government and beyond see that the problem was real—and that, in itself, had an impact."

On December 20th Jim got the call that an organ was available and underwent his second transplant surgery, this time at the hands of Dr. David Conti. It proved to be a success. Sadly, Angelo DeToro died of complications of dialysis while Jim was still in the hospital.

Since the second transplant, Jim and Debbie had a third child, Samantha, now two. Jim's priority at home is appreciating his three children and his wife. Another priority in Jim's life is supporting the cause of organ donation and transplantation so that others might receive the gift of a second chance at life.

"I do anything I can for that cause," he says. "I'm in a unique position to bring the message to those who make decisions. I tell others about my success and the overwhelming need for more organs. I try to educate the public through interviews on TV, radio and in the newspaper. I include the message in newsletters to my constituents."

Jim has sponsored a number of bills designed to educate the public and reward those who choose to be donors. Frank Taft, director for the Center of Donation and Transplant comments, "Assemblyman Conte has never forgotten that his transplant began with a gift. In the Assembly, he has worked diligently to try to pass legislation to remember those who gave this most pre-

cious gift and to promote bills that will lead to increased organ donation."

At times, bills have gotten mired down in party politics, but Jim never gives up. "I just get smarter," he explains. For example, he couldn't get enough support in the majority party (he's with the minority party) to pass legislation creating a statewide organ donor registry. So he worked administratively instead of legislatively. He joined Governor Pataki's transplant council, which actually was successful in establishing a statewide-computerized donor registry. When another piece of organ donation legislation was killed in the healthcare committee, Jim gave the bill to a member of the majority party, who could gain more support from within his party. This selfless move resulted in the successful passage of the legislation under someone else's name.

While he's concerned about effectiveness within the hallowed halls of state government, Jim is also concerned about the effectiveness of his own transplant. "I try to take care of myself," he says. "I follow a low-fat diet, with lots of fruits and veggies. I exercise—either at the gym, on the treadmill or walking outside."

He's also careful about adhering to his medication regimen. "I've never really had a problem with my transplant medications. I made a perfect switch from Sandimmune to Neoral. And I get my medications faithfully each month from Stadtlanders. It's a fantastic service."

Through his actions and through his life, Jim Conte demonstrates that one man can make a difference. But his wife Debbie doesn't look at him and see what he's done; she looks at him and sees who he is. She explains, "He's everything good. He's easy going, a great dad, a loving husband. He's very caring of his community and family. He's very dedicated." No wonder this man is a leader.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 8, 2001 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 9

9:30 a.m.

Joint Economic Committee

To hold hearings to examine the Bureau of Labor Statistics employment data in

order to gauge the status of the February employment situation, as well as the latest consumer and producer price indexes with respect to the inflation outlook.

1334 Longworth Building

MARCH 13

9:30 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold oversight hearings to examine the National Nuclear Security Administration, Department of Energy.

SD-124
Commerce, Science, and Transportation

To hold hearings on S. 415, to amend title 49, United States Code, to require that air carriers meet public convenience and necessity requirements by ensuring competitive access by commercial air carriers to major cities.

SR-253

Veterans' Affairs

To hold hearings to examine the Administration's proposed budget for veterans' programs for fiscal year 2002.

SR-418

10 a.m.

Judiciary

To hold hearings on promoting technology and education issues relating to turbocharging the school buses on the information highway.

SD-226

2 p.m.

Commerce, Science, and Transportation

To hold hearings on S. 361, to establish age limitations for airmen.

SR-253

2:30 p.m.

Finance

To hold hearings on issues relative to living without health insurance.

SD-215

MARCH 14

9:30 a.m.

Rules and Administration

To hold hearings on election reform issues.

SR-301

Energy and Natural Resources

Business meeting to consider their fiscal year 2002 budgetary views and estimates on programs which fall within the jurisdiction of the committee and agree on recommendations it will make thereon to the Committee on the Budget.

SD-628

Commerce, Science, and Transportation

To hold hearings on whether Congress should allow states to require all remote sellers to collect and remit sales taxes on deliveries into that state, provided that states and localities dramatically simplify their sales and use tax systems.

SR-253

10 a.m.

Judiciary

To hold hearings to examine drug treatment, education, and prevention programs.

SD-226

Appropriations

Defense Subcommittee

To hold closed hearings to review intelligence programs.

S-407, Capitol