APPENDIX ONE

Farm Bureau Connections

INSURANCE COMPANIES

The following insurance companies are affiliated with state farm bureaus:

American Agricultural Insurance Co.
American Agricultural Insurance Agency
American Farm Bureau Insurance Services
Colorado Farm Bureau Mutual Insurance Co.
Country Companies (IL, NV, OR)
- Country Life Insurance Co.
- Country Mutual Insurance Co.
- Country Medical Plans, Inc.
- Country Casualty Insurance Co.

Farm Bureau Annuity Co. (MI)
Farm Bureau General Insurance Co. of Michigan
Farm Bureau Mutual Insurance Co. of Michigan
Farm Bureau Life Insurance Co. of Michigan
Farm Bureau Life Insurance Co. of Missouri
Farm Family Holding Co. (VT, NY, CT, NH, WV, ME, MA, NJ, RI)
- United Farm Family Insurance Co.
- Farm Family Casualty Insurance
- Farm Family Insurance Co.
- Farm Family Life Insurance Co.

Farm Bureau Insurance of North Carolina
Farm Bureau Mutual Insurance Co. of Arkansas
Farm Bureau Town and Country Insurance of Missouri
Farm Bureau Insurance Co. of Nebraska
Farm Bureau County Mutual Insurance Co. of Texas
Farm Bureau of Idaho Group
- Farm Bureau Mutual Insurance Co. of Idaho
- Farm Bureau Finance Co.
- Western Community Insurance Co.

FBL Financial Group/Farm Bureau Group of Iowa (UT, IA, ID, AZ, SD, ND,)
- Farm Bureau Life Insurance Co.
- Western Farm Bureau Life Insurance Co.
- Farm Bureau Mutual Insurance Co.
- South Dakota Farm Bureau Mutual Insurance Co.
- Utah Farm Bureau Insurance Co.
- Western Agricultural Insurance Co.
- Western Farm Bureau Mutual Insurance Co.
- EquiTrust Life Insurance Co.
- Universal Assurors Life Insurance Co.

Florida Farm Bureau Casualty Insurance Co.
Florida Farm Bureau General Insurance Co.

Georgia Farm Bureau Mutual Insurance Co.
Indiana Farm Bureau Insurance Co.
Kansas Farm Bureau Life Insurance Co.
Kentucky Farm Bureau Mutual Insurance Co.
Louisiana Farm Bureau Mutual Insurance
Missouri Farm Bureau Insurance Brokerage
Nodak Mutual Insurance (ND)
North Carolina Farm Bureau Mutual Insurance Co.
Rural Mutual Insurance Co. (WI)
Southern Farm Bureau Group (AL, AR, FL, GA, KY, LA, MS, NC, SC, TX, VA)
- Southern Farm Bureau Property Insurance Co.
- Southern Farm Bureau Annuity Insurance Co.
- Southern Farm Bureau Casualty Group
- Southern Farm Bureau Casualty Insurance Co.
- Southern Farm Bureau Life Insurance Co.
- Southern Farm Bureau Universal Life Insurance Co.
Tennessee Farmer's Life Insurance Co.
Tennessee Farmer's Mutual Insurance Co.
United Farm Bureau Family Life Insurance Co.
United Farm Bureau Mutual Insurance Cos. (IN)

OTHER BUSINESS AFFILIATIONS

The following companies are majority owned by the AFBF or its state affiliates as noted in parentheses:

American Agricultural Marketing Assoc. (53.5% - AFBF)
American Farm Bureau, Inc. (100% - AFBF)
Colorado Farm Bureau Consumers Corp. (100% - CO)
Colorado Farm Bureau Marketing Assoc. (100% - CO)
Community Service Acceptance Co. (100% - MI)
Connecticut Farm Bureau Service Co. (100% - CT)
Connecticut Agricultural Cooperative Assoc. (91.7% - CT)
Corporate Services, Inc. (60% - MI)
Farm Bureau Equity Sales Corp. of Michigan (100% - MI)
Farm Bureau Investment Corp. (100% - SC)
Farm Bureau Management Corp. (100% - IA)
Farm Bureau Service Co. (100% - ID)
Farm Bureau Service Co. (100% - IN)
Farm Employers Labor Service (100% - CA)
Farmers Petroleum Cooperative (67% - MI)
Florida Farm Bureau Agency (100% - FL)
Florida Farm Bureau Enterprises (100% - FL)
Florida Farm Bureau Holding Co. (100% - FL)
Georgia Farm Bureau, Inc. (100% - GA)
Georgia Farm Bureau Marketing Assoc. (100% - GA)
Georgia Farm Bureau Holding Co. (100% - GA)
Georgia Farm Bureau Real Estate Co. (100% - GA)
Georgia Farm Bureau Service Co. (100% - GA)
*Illinois Agricultural Holding Co. (100% - IL)

Indiana Agricultural Marketing Assoc. (100% - IN)
Kansas Farm Bureau Services (100% - KS)
Kansas Agricultural Marketing Assoc. (98% - KS)
Kentucky Farm Bureau Investment Corp. (100% - KY)
Kentucky Farm Bureau Development Corp. (100% - KY)
Louisiana Farm Bureau Investment (100% - LA)
Louisiana Farm Bureau Service (99.6% - LA)
Maine Farm Bureau Service (92.25% - ME)
Maine Farm Bureau Building (100% - ME)
Maine Farmer's Service (88.83% - ME)
Maine Agricultural Marketing Assoc. (51.74% - ME)
Maryland Farm Bureau Service Co. (100% - MD)
Media West, Inc. (100% - UT)
Michigan Farm Bureau Financial Corp. (100% - MI)
Michigan Agricultural Cooperative Marketing Assoc. (57% - MI)
Michigan Farm Bureau Group Purchasing, Inc. (100% - MI)
Missouri Farm Bureau Services, Inc. (100% - MO)
Nebraska Farm Administration Corp. (100% - NE)
New York Farm Bureau Member Services, Inc. (100% - NY)
North Carolina Farm Bureau Investment Corp., Inc. (% - not available)
North Carolina Farm Bureau Service Co., Inc. and Subsidiaries (100% - NC)
North Dakota Farm Bureau Trade Development and Service Corp. (100% - ND)
Ohio Agricultural Marketing Assoc. (53% - OH)
Ohio Farm Bureau Synfuels (100% - OH)
Ohio Farm Bureau Development Corp. (100% - OH)
Oklahoma Farm Bureau Building Corp. (OK)
Salina Marketing Services (54% - UT)
South Carolina Farm Bureau Marketing Corp. (100% - SC)
South Dakota Farm Bureau Service Co. (100% - SD)
Synfuels Capital Corp. (100% - OH)
Tennessee Farm Bureau Federation Corporation (100% - TN)
Texas Farm Bureau Building Corp. (100% - TX)
Texas Farm Bureau Investment Corp. (100% - TX)
Texas Farm Bureau Management Corp. (100% - TX)
Utah Farm Bureau Service Co. (100% - UT)
West Virginia Farm Bureau Service Corp. (100% - WV)
West Virginia Agricultural Marketing Assoc. (100% - WV)
Wisconsin Farm Bureau Service Corp. (100% - WI)
Wyoming Farm Bureau Management, Inc. (100% - WY)

** Illinois Agricultural Holding Co. has a major interest in 53 companies. See note and list on next page.*

Note: Illinois Agricultural Holding Co., 100% owned and controlled by the Illinois Farm Bureau, has a major interest in the companies listed here:

1105433 Ontario Inc.
ABC Dairy, Inc.
Alliance Agency, L.L.C.
American Quality Pork, L.L.C.
CC Services, Inc.
Country Capital Management Co.
Country Casualty Insurance Co.
Country Preferred Insurance Co.
Country Life Insurance Co.
Country Investors Life Assurance Co.
Country Medical Plans Inc.
Country Mutual Insurance Co.
East Side Jersey Dairy, Inc.
FS Energy, Inc.
FS Financial Services Corp.
FS Structures of Iowa, L.L.C.
FS Credit Corp.
FS Export Services, Inc.
FS Services Ontario Ltd.
GMS Transport Co.
Growmark, Inc.
Henry Foods, L.L.C.
Hoosier Dairy, Inc.
IAA Federal Credit Union
IAA Trust Growth Fund, Inc.
IAA Trust Tax Exempt Bond Fund, Inc.
IAA Trust Asset Allocation Fund, Inc.
IAA Trust Co.
IAA Trust Taxable Fixed Income Series Fund, Inc.
Ice Cream Specialties, Inc.
Illinois Agricultural Auditing Assoc.
Illinois Agricultural Service Co.
Illinois Livestock Marketing Co.
lllinois Milk Producers Assoc.
Interstate Producers Livestock Assoc.
Lakeland FS, Inc.
Mid-America Brokerage, Inc. (Oklahoma)
Mid-America Services of Alaska, Inc.
Mid-America Services of Nevada, Inc.
Mid-America Services of Oregon, Inc.
Mid-America Services of Washington, Inc.
Mid-CO Commodities, Inc.
Middlesex Mutual Assurance Co.
Midfield Corp.
Mo-Kan Express, Inc.
Muller-Pinehurst Dairy, Inc.
P.F.D. Supply Corp.
Prairie Farms Dairy, Inc.
Project Explorer Corp.
Project Explorer Mark II Corp.
Southwest FS, Inc.
UCO Petroleum, Inc.
TRI-FS, Inc.

WISE-USE MOVEMENT CONNECTIONS

According to the Environmental Working Group's Clearinghouse on Environmental Advocacy and Research (CLEAR), the following farm bureau organizations are wise-use groups:

Alabama Farm Bureau
Albany County (NY) Farm Bureau
American Farm Bureau Federation
California Farm Bureau
Carroll County (TX) Farm Bureau
Colorado Farm Bureau
Delaware Farm Bureau Federation
Elko County (NV) Farm Bureau
Farm Bureau News (Olympia, WA)

Florida Farm Bureau
Idaho County (ID) Farm Bureau
Idaho Farm Bureau
Indiana Farm Bureau
Kansas Farm Bureau
King County (WA) Farm Bureau
Maine Farm Bureau
Massachusetts Farm Bureau Federation, Inc.
Minnesota Farm Bureau
Mississippi Farm Bureau Federation
Modoc County (CA) Farm Bureau
Montana Farm Bureau Federation
Nevada Farm Bureau
New Hanover County (NC) Farm Bureau
New York Farm Bureau
Ogle County (IL) Farm Bureau
Oklahoma Farm Bureau
Oregon Farm Bureau
Pike County (IL) Farm Bureau
Polk County (AR) Farm Bureau
Ravalli County (MT) Farm Bureau
Rhode Island Farm Bureau
Riverside County (CA) Farm Bureau
San Bernardino County (CA) Farm Bureau
San Diego County (CA) Farm Bureau
Santa Clara County (CA) Farm Bureau
Siskiyou County (CA) Farm Bureau
Texas Farm Bureau
The Farm Bureau of Snohomish County (WA)
Utah Farm Bureau Federation
Vermont Farm Bureau Federation
Virginia Farm Bureau
Washington State Farm Bureau
Wyoming Farm Bureau

According to CLEAR, the following wise-use groups are supported by farm bureau organizations:

Alliance Defense Fund
Cato Institute
Coalition for Vehicle Choice
Council for Agricultural Science and Technology
National Endangered Species Act Reform Coalition
National Wetlands Coalition
Pacific Legal Foundation
Reason Foundation
Environmental Conservation Organization (ECO)
Oregon Lands Coalition
Wilderness Impact Research Foundation
Western States Coalition
Environmental Issues Council
Foundation for Clean Air Progress
Air Quality Standards Institute
Heartland Institute
Global Climate Information Project
Center for the New West
People for the U.S.A. (Formerly People for the West!)
Pennsylvania Landowners Association
American Land Rights Association
National Inholders Association
Multiple Use Alliance

APPENDIX TWO

Tax Treatment of Unrelated Business Income For Agricultural and Horticultural Organizations

Congress quietly slipped the farm bureau system a lucrative gift in the 1996 Tax Act.[1] It was tucked in as Section 1115, which gives tax exemption for farm bureau income from virtually any kind of "membership dues."

This seemingly arcane provision props open a huge back door through which the farm bureau system draws in tens of millions of tax-free dollars from unrelated business activities — and from individuals who have little connection with farm bureau objectives. When enacting that provision, Congress brushed aside growing Internal Revenue Service (IRS) concerns that farm bureaus, along with other tax-exempt organizations, were creating artificial membership categories primarily to circumvent the tax laws.

Enactment of Section 1115 is a case study of how the farm bureau system parlays its "small farmer" image into big-time political power and financial gain.

TAX EXEMPTION

The federal income tax has always exempted certain nonprofit organizations to (1) help these organizations perform functions for which government would otherwise have to pay, (2) provide a subsidy for solving societal problems in ways unavailable to government, and (3) compensate nonprofit organizations for restraints on their ability to raise capital.

Section 501(c) of the U.S. Tax Code specifies 25 categories of organizations eligible for tax exemption.

The American Farm Bureau Federation (AFBF) and its affiliates are exempt under Section 501(c)(5), which applies to labor and agricultural organizations[2]. To qualify, an organization must have one or more of the following exempt purposes: (1) bettering the conditions of persons engaged in the pursuits of labor or agriculture, (2) improving the grade of their products, or (3) developing a higher degree of efficiency in their occupations.[3] In its annual returns to IRS, AFBF states that its purpose is "to promote and advocate the economic, social, and educational interest of its members, and to promote agriculture in general."[4]

Farm bureaus are given unusual latitude

under the tax code. Section 501(c)(5) does not limit farm bureau membership to persons actually engaged in agricultural pursuits.[5] And, unlike most other tax exempt organizations, a 501(c)(5) organization may engage in (1) lobbying that is germane to its exempt purposes and (2) some political activity, so long as that is not the organization's primary activity.

The farm bureau system has turned tax laws into a unique license to make money and wield political influence.

POTENTIAL FOR ABUSE

Since tax-exemption creates strong temptations for abuse, Congress and IRS have been especially concerned with (1) preventing legitimately tax-exempt organizations from unfairly competing against tax-paying businesses, and (2) preventing essentially commercial enterprises from obtaining Section 501(c) exemption to evade taxation.

The tax-exempt sector issue has far-reaching consequences for the private economy and the federal budget. This sector is large and, for decades, has grown almost three times faster than the rest of the economy.[6] Between 1975 and 1995, the financial resources of 501(c) organizations reporting to IRS more than tripled to $1.9 trillion in assets and $899 billion in annual revenues. IRS estimates that in 1995 the total revenues of exempt organizations equaled about 12.4 percent of gross domestic product (GDP) — more than double the percentage 20 years earlier.[7]

Moreover, more than two thirds of the exempt sector's financial resources are controlled by a small number of large organizations that can wield substantial financial clout when entering into competition with tax-paying businesses.[8]

Because of its decentralized structure, the farm bureau system is able to camouflage its large size.[9] The AFBF's Form 990 reported 1997 revenues of only $18.6 million — $17.1 million of which was from membership dues. AFBF does not provide aggregate financial reports for its affiliated state and county farm bureaus. Farm bureau operations receive very little congressional scrutiny. In early 1995, the General Accounting Office (GAO) noted that press reports and congressional hearings had focused on charitable organizations but had not given the same level of scrutiny to other categories of tax-exempt organizations. Nevertheless, when GAO itself studied these other categories — reviewing 285 exempt organizations, of which 46 were Section 501(c)(5) organizations — it included only one agricultural organization, a farm bureau in one state.[10]

UNRELATED BUSINESS INCOME TAX

The Tax Code does not prohibit tax-exempt organizations from generating profits from activities in which they are engaged. In fact, tax-exempt organizations have long derived most of their revenues from profit-making activities. A 1998 IRS report states that Section 501(c) organizations received about 69 percent of their 1995 revenues from income-producing activities.[11]

Prior to 1950, all revenues of tax-exempt organizations went untaxed. But after taxpaying businesses protested that tax-exempts were increasingly moving in as their direct competitors, Congress enacted the Unrelated Business Income Tax (UBIT) as part of the Revenue Act of 1950.[12]

Under current law, an activity of an exempt organization is subject to UBIT if the activity is:

- A trade or business, that is carried on for the production of income from providing the services;
- Regularly carried on; and
- Not substantially related to the organization's exempt purpose.[13]

IRS regulations provide that a trade or business is "related" to the organization's exempt purpose only if the activities have a direct causal relationship to the achievement of exempt purposes. It is not sufficient that these activities produce income needed to carry out those exempt purposes.[14]

The variety of profitable activities and the creativity of tax-exempt organizations have kept IRS and the courts busy trying to maintain a clear line between what is and what is not subject to UBIT.

The farm bureau system has been an aggressive leader in unrelated business activities, as defined by IRS. A nationwide network of farm bureau insurance companies sells life insurance, retirement annuities, car insurance, home insurance, business insurance, health and disability insurance and more.[15] In 1998, the farm bureau system began expanding into direct banking.[16]

While these for-profit subsidiaries have turned the farm bureau membership base into a lucrative commercial asset, farm bureaus present themselves as local or regional membership organizations that derive little revenue from income producing activities. AFBF's IRS returns for the tax years 1995 through 1997 claim that member dues accounted for about 95 percent of its total reported revenue.[17] AFBF reported that only 0.2 percent of its revenues come from program service income.

An IRS summary report, which relies on that information, suggests that labor and agricultural organizations benefit much less from income-producing activities than do other classes of exempt organizations.[18]

That public image is quite at odds with the true extent of the farm bureau system's for-profit corporate reach.

ASSOCIATE MEMBER DUES

The peculiar way the tax laws treat their member dues makes it easy for the farm bureaus to understate their unrelated business income.

Dues are a handy device for tax avoidance. Since a 501(c) membership organization's dues income is generally not subject to taxation, the organization has a clear incentive to characterize income as nontaxable membership dues – even when the income is derived from the sale of unrelated business products or services marketed beyond the organization's regular members.

An easy way to accomplish that task is to establish artificial classes of "membership" for purchasers of those unrelated business products.

Farm bureaus, for example, have created a class of "associate members" who cannot vote or hold office in the organization but pay "dues" primarily to gain access to unrelated business services, such as insurance.[19]

To see how this can be a very lucrative subterfuge, consider two cases with identical cash flows to a farm bureau. In the first case, an insurance company pays a farm bureau, say, $80 whenever it issues an insurance policy to a nonmember. That payment is income to the farm bureau from unrelated business and thus subject to UBIT.

In the second case, the farm bureau (1) has its insurance subsidiary issue policies only to farm bureau members and (2) requires each nonmember insurance applicant to pay the farm bureau $80 in dues to join as an "associate member."[20] Now the farm bureau does not pay UBIT on this "dues" income.

This second method enables the farm bureau system to tap large amounts of tax-free income from customers of its unrelated businesses, while restricting farm bureau voting membership to individuals who are most likely to support the leadership's established political objectives and operating methods.

Although the farm bureau system does not release information on the amount of income it derives from associate member dues, the amount is very large. One typical state farm bureau reported that "associate members" accounted for 51 percent of its total membership and 63 percent of its new members in 1998.[21]

Other available evidence suggests that most farm bureau revenue growth is coming from "associate memberships." Creation of the Farm Bureau Bank greatly expands the number of potential associate members.

"Associate membership" in a farm bureau is sold with little regard to an individual's interest in or support for the organization's tax-exempt activities or policy agenda. As noted, most "associate members" pay dues to gain access to farm bureau insurance. Farm bureau materials emphasize that the cost of membership can be more than recouped through such other benefits as free-death benefits and discounts on automotive parts, medication, lube jobs and other products.

An IRS technical advisory memorandum stated the following: "A random survey conducted in August 1990 indicates that accessibility to insurance programs offered by [the farm bureau's] affiliates is the major reason that associate members join [the farm bureau]. The report reveals that 96 percent of those associate members surveyed were aware of [the farm bureau's] insurance programs; 95 percent of those who were aware actually purchased insurance; and 91 percent of associate members have one or more insurance policies.

"Although all of [the farm bureau's] benefit programs are available to associate members, those associate members surveyed cite insurance programs (45 percent), lower rates (33 percent) and their insurance agent (12 percent) as their primary reasons for being members of [the farm bureau]. According to the study, this correlates with the high percentage of associate members who own one or more insurance policies. In contrast to regular members, only five percent of associate members surveyed indicate they had purchased a membership because of an interest in agricultural activities."[22]

In 1983, under the Reagan administration, the IRS held that, while an exempt organization's income from insurance activities was taxable, associate member dues were not taxable if associate members received member benefits other than eligibility for the insurance.

Farm bureaus were not, of course, the only exempt organizations to exploit this opportunity. By the late 1980s the "associate membership" problem attracted much closer IRS scrutiny.[23]

The issue gained momentum in 1991 when two circuit courts held that postal unions would have to pay UBIT on associate member dues if the dues were paid primarily to obtain lower cost group insurance.[24]

In 1994, when auditing a state farm bureau, IRS issued a revised position on associate member dues.[25] IRS now focused, not on the variety of member benefits, as in 1983, but on the associate member's reasons for paying the dues. The revised position held that associate member dues are subject to UBIT because:

"[P]roviding access to insurance coverage available from a subsidiary is not consistent with the purposes of tax-exempt agricultural organizations. [The state farm bureau] promotes and administers its program as would any private, commercial entity. … [I]ndividuals who are not bona fide members of an exempt organization are required to make a payment to the organization in order to obtain insurance."[26]

IRS found that associate members could not vote, represent their counties as voting delegates at annual meetings or serve on the board of directors. They could serve as officers, but the only ones who did so were also full-time employees of the farm bureau. The revised IRS position was consistent with the findings in several other court cases that turned on the nature of these associate memberships.[27] IRS applied this policy across the country and pressed lawsuits for payment of back taxes against farm bureaus in 11 states — Alabama, Florida, Georgia, Illinois, Kentucky, Michigan, Missouri, North Carolina, Tennessee, Texas and Washington. The farm bureaus promptly took their case to Congress.

CAMP-PAYNE BILL

On February 1, 1995, Congressmen David Camp (R-Michigan) and L.F. Payne (D-Virginia) introduced "The Tax Fairness for Agriculture Act" (H.R. 783), which was designed explicitly to overturn the revised IRS position and reinstate the 1983 policy for finding of the previous year. In summary, the bill provided special aid to agricultural organizations by:

• Exempting from UBIT any portion of annual membership dues that did not exceed $100 in calendar 1996, adjusted for inflation annually thereafter; and

• Prohibiting IRS from collecting UBIT on prior year membership dues if the organization had a "reasonable basis" for not treating the dues as income from an unrelated trade or business.

Of the 38 original cosponsors, 28 were Republicans and ten were Democrats. The bill eventually attracted 126 House cosponsors.

IRS REVENUE PROCEDURES 95-21

Less than two months after H.R. 783 was introduced, IRS revised its standard for determining the tax exemption of associate member dues.[28]

In Revenue Procedure 95-21, IRS announced it would no longer consider why individuals chose to become associate members of an agricultural organization. For future years, "other than where the statute or regulation specifically provides a method for allocating a portion of dues payments to unrelated business taxable income, the Service will treat dues payments from associate members as not [subject to UBIT] if the associate member category has been formed or availed of for the principal purpose of furthering the organization's exempt purposes" — rather than producing unrelated business income.[29]

IRS seemed to be retreating to a more easily defended position. It dropped its concern with an associate member's reasons for paying dues. And it agreed not to assume automatically that associate member dues are subject to UBIT. However, it was trying to retain its right (1) to pursue collection of UBIT payments for prior years, (2) to determine on a case-by-case basis whether an organization was using associate memberships primarily to produce unrelated business income, and (3) to establish specific methods for subjecting a portion of the associate member dues to UBIT. The IRS motives cannot be known with certainty, but experienced observers believe the tactical objective was to ward off legislative intervention that would set costly and disruptive precedents.

SMALL BUSINESS JOB PROTECTION ACT

Nevertheless, Congress took up the farm bureau's associate member cause when it acted on the 1996 tax bill, "The Small Business Job Protection Act" (H.R. 3448). Several aspects of the legislative action are particularly revealing. Tax exemption for associate member dues was a major farm bureau priority in the 1996 tax bill. However, farm bureau lobbyists and congressional supporters kept the effort low-profile — out of media attention.

During 1995 and 1996, farm bureau affiliated political action committees (PACs) gave $109,824 to many of the cosponsors of this bill, including $16,480 for Camp. The Texas Farm Bureau PAC gave $5,000 in 1996 to Senator Phil Gramm (R-Texas), a key supporter of the provision in the Senate.

IRS continued to press strongly behind the scenes to limit the impact of congressional intervention. During negotiations with senators, including Chairman William V. Roth (R-Delaware) and ranking member Daniel P. Moynihan (D-New York) of the Senate Finance Committee, IRS stated that it had decided, in accordance with Rev. Proc. 95-21, not to treat associate member dues as subject to UBIT in the future. However, IRS would not agree to drop pending litigation to recover back taxes.[30]

Non-farm organizations found themselves in an uncomfortable position. They had little hope of stopping or significantly changing this special-interest legislation — but its enactment would weaken the farm bureaus' incentive to ease IRS enforcement.

The American Society of Association Executives (ASAE) tried to strike a balance in its testimony before the House Ways and Means Committee. ASAE's official position was that it opposed "any abridgment of tax exemption for associations including, but not limited to, taxation of dues income." ASAE stated, however, that the pending legislation was not broad enough because it only benefited agricultural organizations. ASAE favored making all membership dues tax-free unless income generation was the organization's principal purpose for having the class of members.[31]

Surprisingly, the Joint Tax Committee, which provides technical analysis of pending tax legislation, advised Congress that the farm bureau dues provision would have negligible revenue impact. If that were the case, it is unlikely IRS would be taking farm bureaus to court.

Subsequently, the committee staff has given two reasons for its estimate, both of which are questionable.

One reason given is that Revised Procedure 95-21 would exempt agricultural membership dues from UBIT in the future. The IRS regulation did not, however, provide the blanket exemption provided in the bill.

Another reason given is that farm bureaus could avoid UBIT law by simply converting their associate members to voting members. But, as noted above, the farm bureau leadership could never do that since it would overthrow the power relationships within the established system.

The Joint Tax Committee staff may simply have overlooked this issue. But experienced observers believe it is more likely that farm bureau advocates in Congress actively pressed for a revenue estimate that would make Section 1115 more easily accepted.

Most members of Congress accepted the farm bureau's self-projected image as the "voice of farming." Staff recall that Section 1115 had broad, bipartisan support and was generally considered a noncontroversial, pro-farming vote.

Important also was that Section 1115 gave members of Congress an easy opportunity to side with taxpayers against the IRS[32] House floor action. Section 1115 was not mentioned on May 22, 1996, during House floor debate on the tax bill.

The committee report states blandly: "The Committee believes that it is appropriate to clarify the treatment of certain limited dues payments from associate members of organizations described in section 501(c)(5) to curtail expensive and time-consuming controversies regarding the treatment of such payments for purposes of the UBIT and to facilitate administration of the Code."[33]

The House-passed bill provided UBIT exemption for all agricultural organization member dues up to $100 starting in tax years after 1995, with adjustments for inflation thereafter. Only one dues payment per member would be so exempted.

Senator Gramm was the only senator to mention Section 1115 during floor debate. He stated that the provision would stop IRS from "trying to force the Farm Bureau to pay taxes they do not owe."[34] In his floor remarks, Senator Gramm said: "[B]eing part of the Farm Bureau is being part of agriculture.... The position of the IRS is indefensible in the opinion of the vast majority of Members of Congress and is indefensible in the opinion of the vast majority of the American people. We not only want the IRS to stop doing this in the future, we want them to go back to these old lawsuits and end this harassment once and for all." The Senate unanimously accepted a package of amendments including one that applied the farm bureaus' UBIT exemption all the way back to 1986, thus pulling the rug out from under pending litigation.

IRS regulations currently reflect this "safe harbor" exemption for all membership dues paid to agricultural organizations.

A SHARP CONTRAST: AARP

The kid-glove treatment the farm bureaus received from Congress in this instance is rarely extended to other nonprofit organizations — even politically powerful ones.

A starkly different reception was given the American Association of Retired Persons (AARP), which is generally considered one of the more influential organizations in Washington.[35] In June of 1995, AARP practices were exposed to two days of aggressive hearings by the Senate Finance Committee's Subcommittee on Social Security and Family Policy, chaired by Senator Alan Simpson (R-Wyoming).

Senator Simpson in his opening statement said, "People know something is wrong when an organization that gets more than half of its income from commercial business activities simultaneously spends millions annually to lobby, with a claim that they represent the interests of seniors and the elderly."[36] That logic evidently does not apply to the Farm Bureau.

NOTES

1 The Small Business Job Protection Act of 1996 (H.R. 4338; P.L. 104-188).

2 In this paper, the term "agricultural organization" refers to an agricultural organization or a horticultural organization, as defined in the Tax Code.

3 IRS Handbook 7.8 - Exempt Organization Handbook, Chapter 5.5.

4 American Farm Bureau Federation Form 990 for tax years 1995, 1996 and 1997 provided for public inspection in accordance with IRC 6104(b).

5 IRS Handbook 7.8 op. cit.

6 Testimony of Natwar M. Gandhi on behalf of the U.S. General Accounting Office, Hearings before the Senate Finance Committee, Subcommittee on Social Security and Family Policy, June 13, 1995, Washington, D.C.

7 A 20-year Review of the Non-profit Sector, 1975-95, Alicia Meckstroth and Paul Arnsberger, Statistics of Income Bulletin, IRS, Fall of 1998. pp. 149 ff.

8 Competition between Tax-Exempt Organizations and Taxable Businesses, GAO/GGD-87-40BR, Feb. 27, 1987. Followup analysis by GAO found that the financial concentration continued in 1989 (Gandhi, op. cit, p. 78).

9 The interlocking structure of the farm bureau system is described in other analyses prepared by Defenders of Wildlife.

10 Competition, op. cit. p. 61.

11 Meckstroth and Arnsberger, op. cit. p. 164.

12 P.L. 81-814, September 23, 1950; IRC 511(a)

13 IRC 512(a)(1), 513(a).

14 IRS Reg. 1.513-1(d)(2).

15 The complex corporate and financial relationship between the farm bureau system and its insurance affiliates is described elsewhere in analyses by Defenders of Wildlife.

16 On April 21, 1999, FB BanCorp received formal approval from the federal Office of Thrift Supervision to establish a de novo federal savings bank. FB BanCorp is a Nevada corporation whose stock is owned by 21 state farm bureau federations and 19 of their affiliated insurance companies. The Farm Bureau Bank is headquartered in Sparks, Nevada, and has its operations center in San Antonio, Texas. The bank currently offers consumer banking services to 3 million Farm Bureau members in 39 states. It has assets of more than $150 million.

17 American Farm Bureau Federation Form 990 for tax years 1995, 1996 and 1997, made available by AFBF for public inspection in accordance with IRC 6104(b).

18 Meckstroth and Arnsberger, op. cit. p. 164.

19 Farm bureau associate members usually pay the same dues as voting members.

20 In actual practice, farm bureau insurance companies collect these “associate membership” dues in conjunction with initial premiums and forward payment to a farm bureau. State, local and national affiliates share the revenue.

21 Wisconsin Farm Bureau, 1998 Annual Report.

22 ibid. “Facts.”

23 TAM 83-02-009 and TAM 83-02-010.

24 American Postal Workers Union, AFL-CIO v. United States, 925 F.2d 480 (D.C. Cir. 1991) and National Association of Postal Supervisors v. United States, 944 F.2d 859 (Fed. Cir. 1991).

25 TAM 94-16-002.

26 ibid “Rationale.”

27 National Association of Life Underwriters, Inc. v. Commissioner, 64 CCH Tax Ct. Mem. 3779 (1992); Hunt v. Washington Apple Advertising Commission, 432 U.S. 333 (1977); Health Research Group v. Kennedy, 82 F.R.D. 21 (1979); FEC v. National Right to Work Committee, 459 U.S. 197 (1982).

28 Rev. Proc. 95-21, 1995-1 C.B. 686, 1995-15 I.R.B. 22. Published March 23, 1995.

29 ibid.

30 Letter to Senator Phil Gramm from Donald C. Lubick, Acting Assistant Secretary (Tax Policy) June 24, 1996, 104 C.R. p. S7426f.

31 House Ways and Means Committee Hearings on H.R. 3448.

32 ibid.

33 H.Rept. 104-568.

34 op. cit 104 CR.

35 After being audited by IRS, AARP in 1994 agreed to pay $135 million in lieu of taxes to resolve disputes for the years 1985 through 1993. At issue were AARP revenues from the sale of insurance and other services, not associate membership dues. The dispute was finally settled in June, 1999. cf. *Wall Street Journal*, June 29, 1999.

36 Business and Financial Practices of the AARP, Hearings before the Subcommittee on Social Security and Family Policy of the Committee on Finance, U.S. Senate, 104th Congress, First Session, June 13 and June 20, 1995. S. Hrg. 104-109, p. 4.