

**FOR IMMEDIATE RELEASE**

**CONTACT:**  
**William Roberts**  
**Director – Media Relations**  
**202-434-9266**  
[wroberts@aicpa.org](mailto:wroberts@aicpa.org)

**Shirley Twillman**  
**Senior Manager – Media Relations**  
**202-434-9220**  
[stwillman@aicpa.org](mailto:stwillman@aicpa.org)

**AICPA Thanks Congress for Equalizing Reporting Standards  
for Taxpayers and Tax Preparers**  
*Provision Attached to Financial Markets Rescue Bill Signed into Law*

**Washington, D.C. (October 8, 2008)** – The American Institute of Certified Public Accountants thanks Congress for passing a new law equalizing the tax return reporting standards for taxpayers and tax preparers. The legislation was part of the financial markets rescue package Congress passed and President Bush signed on Oct. 3.

“Equalizing the IRS reporting standards for taxpayers and tax preparers was the right thing to do, and Congress understood that and acted quickly,” said Barry C. Melancon, president and CEO of the AICPA. “The AICPA and its members thank Congress for its swift action.”

“We extend special thanks to Representative Joseph Crowley, a New York Democrat, Representative Jim Ramstad, a Minnesota Republican, Senator Kent Conrad, a North Dakota Democrat, Senator Jim Bunning, a Kentucky Republican, and Senator Orrin Hatch, a Utah Republican for sponsoring and championing the corrective legislation,” Melancon said.

The Internal Revenue Code established thresholds, or standards, that taxpayers and tax preparers must meet in order to avoid penalties when a tax return under reports taxes due. The standards are designed to give citizens reasonable flexibility in complying with the tax code while requiring taxpayers and tax preparers to rely on reasonable interpretations of the code. The system as it applies to tax preparers

-more-

was established in the late 1980s. It changed significantly when Congress passed a law in 2007 that raised the penalty threshold applying to tax preparers to a level above the threshold applying to taxpayers.

“The differential in standards created a potential conflict of interest between tax preparers and their clients that could have chilled the professional advice CPAs might have given taxpayers,” Melancon said.

The potential conflict of interest between a tax preparer and taxpayer would have arisen in situations where the taxpayer had “substantial authority” for a tax return position, but the tax preparer could not reasonably meet the “more likely than not” standard, according to Tom Ochenschlager, AICPA vice president of taxation. In such a situation, the taxpayer would not have been required to disclose the position to avoid a penalty, but the preparer would only have been protected from potential IRS penalties if the taxpayer made the disclosure.

Prior to the 2007 change, tax preparers had been required to meet a “realistic possibility of success” standard, or about a 33 percent chance of success if challenged by the IRS. Taxpayers had to meet a “substantial authority” standard for undisclosed positions, which generally means a tax position has about a 40 percent chance of being sustained. That differential placed the responsibility for disclosure on the taxpayer where it properly belongs.

The “more likely than not” standard requires a reasonable belief that the position has a greater than 50 percent chance of being accepted by the IRS or a court, an impossible standard to apply in many circumstances, Ochenschlager said.

The law Congress just passed Oct. 3 generally equalizes the undisclosed tax reporting standard for both taxpayers and tax preparers at the more workable threshold of “substantial authority.” It was attached to the rescue measure as part of the tax extenders package that Senate leaders added to the market stabilization bill in order to jumpstart the legislation following its defeat in the House of Representatives Sept. 29.

### **About the AICPA**

The American Institute of Certified Public Accountants ([www.aicpa.org](http://www.aicpa.org)) is the national, professional association of CPAs, with more than 350,000 CPA members in business and industry, public practice, government, education, student affiliates, and international associates. It sets ethical standards for the profession and U.S. auditing standards for audits of private companies, non-profit organizations, federal, state and local governments. It develops and grades the Uniform CPA Examination.

The AICPA maintains offices in New York, Washington, D.C., Durham, N.C., Ewing, N.J., and Lewisville, TX.

Media representatives are invited to visit the AICPA Online Media Center at [www.aicpa.org/mediacenter](http://www.aicpa.org/mediacenter).

###