



National Asian Pacific American Bar Association

Statement Opposing Cash to Accrual Tax Reform Proposal

Endorsed March 2014

WHEREAS, the National Asian Pacific American Bar Association (NAPABA) is the national association of Asian Pacific American attorneys, judges, law professors and law students, representing the interests of over 40,000 attorneys and nearly 70 national, state, and local Asian Pacific American bar associations; NAPABA members include solo practitioners, large firm lawyers, corporate counsel, legal service and non-profit attorneys, and lawyers serving at all levels of government; and NAPABA is committed to addressing civil rights issues confronting Asian Pacific American communities and people of color;

WHEREAS, current law allows individuals and most partnerships and other pass-through entities to use the simple cash method of accounting for tax purposes, in which income is not recognized until cash or other payment is actually received;

WHEREAS, last year, the chairmen of the House Ways and Means Committee and the Senate Finance Committee released discussion draft tax reform bills with provisions that would force many law firms and other personal service businesses to change from the cash to the accrual method of accounting;

WHEREAS, Section 212 of the House bill, the "Tax Reform Act of 2013," and Section 51 of the comparable Senate bill would raise the gross receipts cap to \$10 million while eliminating the existing exemption for law firms and other personal service businesses, partnerships, and S corporations;

WHEREAS, requiring law firms with gross receipts greater than \$10 million to switch to the accrual method of accounting and pay taxes on income that has not yet been received (and may never be received) would force many firms to borrow money to make tax payments on "phantom" income;

WHEREAS, the cash method of accounting is simple to apply and recognizes income when it is received and record expenses when paid, whereas under the accrual method income is recognized when the right to receive income is "fixed" and expenses are recorded when they are "fixed, determinable, and economic performance has occurred";

WHEREAS, the impact of the proposed legislation would be broad and unfair, hurting many middle income business owners by requiring them to pay taxes on income they have not collected;

WHEREAS, the proposed legislation would undermine the financial stability of the American legal industry; and

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WHEREAS, in November 2013 the American Bar Association Board of Governors adopted a Resolution in opposition to the draft legislation and any other similar legislation and numerous state bars have also opposed the draft legislation, including those in Ohio, Minnesota, New Jersey, and Wisconsin.

THEREFORE BE IT RESOLVED, that NAPABA:

1. Opposes any legislation, regulations, or other governmental measures which would require law firms and other personal service businesses that now compute taxable income on the cash receipts and disbursements method of accounting to convert to the accrual method of accounting.
2. Authorizes its president, board, and staff to communicate the content of this resolution to its members, affiliates, other bar associations, members of Congress, the Administration, the press, and others to take steps to implement this resolution, as they deem necessary.
3. Supports this resolution as a policy priority until it is withdrawn or modified by subsequent resolution.