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001. email	Sheryl Sandberg to Secretary Rubin; re: IRS Aadvisory Board (2 pages)	06/11/97	P2, P5

COLLECTION:

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FOLDER TITLE:

[History of the Department of the Treasury - Supplementary Documents] [19]

jp44

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.
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b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

1997-SE-005331

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

GENERAL COUNSEL

MEMORANDUM FOR DEPUTY SECRETARY SUMMERS

FROM: EDWARD S. KNIGHT ESK

SUBJECT: *IRS Governance*

As we have discussed, attached are a memorandum from you to Secretary Rubin recommending a number of decisions in the area of IRS governance, a draft Executive Order creating an Internal Revenue Service Management Board to replace the Modernization Management Board and a draft Federal Advisory Committee Act charter for the new National IRS Council. The attached package reflects the changes that we discussed Friday.

RECOMMENDATION:

That you sign the memorandum attached at Tab 1.

_____ Agree _____ Disagree _____ Let's discuss

Attachments

Tab 1 Memorandum to the Secretary
- Tab A Current MMB Structure and Membership
- Tab B Draft Executive Order
- Tab C Draft Advisory Committee Charter

limits the terms of committees to two years, at which point a new charter must be issued. (Some committees run indefinitely under successive two year charters.) A draft charter is attached at Tab C. FACA charters must be approved by OMB and published in the Federal Register. FACA committees generally must conduct open meetings.

As a point of departure, my March 17 speech outlined several points concerning the advisory committee. We assume that these are acceptable, but list them to assure your agreement:

- The committee reports directly to the Secretary;
- The committee's purpose is to bring private sector expertise to bear on management of IRS;
- The committee will be composed of senior business executives, experts in information technology, small business advocates and tax professionals; and,
- The committee will meet regularly and make recommendations on major strategic decisions facing IRS.

The following issues need to be addressed in connection with creation of this advisory committee.

Title

We recommend that the blue ribbon committee be called the National IRS Council in order to reflect the scope of its responsibilities and membership.

_____ Agree _____ Disagree _____ Let's discuss

Scope of work

In order to meet the Secretary's needs for expertise in connection with oversight of the IRS, we recommend that the members of the blue ribbon committee be authorized to consider issues that are presented to it by the Department which relate to: (1) management and operations of the Internal Revenue Service (IRS); or (2) current or proposed IRS policies, programs, procedures and plans, including budget matters relating to the IRS or tax administration.[1]

_____ Agree _____ Disagree _____ Let's discuss

Staffing

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[1]The National IRS Council will not need access to "tax returns" or "return information" that is protected from disclosure by IRC §6103 (generally, specific tax matter information) in order to perform its functions.

We recommend that the Department provide staff and other administrative support to the Council in order to ensure that it has the resources it needs to fulfill its responsibilities.

_____ Agree _____ Disagree _____ Let's discuss

Membership

We recommend that the National IRS Council be a 14-member board, consisting of senior representatives from the private sector: four from Fortune 500 companies; one from the small business community; a current state tax administrator; two leading tax professionals (accountants and attorneys); two leaders of the technology community; one representative of the non-profit or education sector; two community leaders; and one representative of the tax preparer industry.

_____ Agree _____ Disagree _____ Let's discuss

Operations

We recommend that the National IRS Council meet quarterly with the IRS and report ***quarterly*** on its findings and advice to ***the Office of the Secretary (NOTE: "OS" as term of art does not include Assistant Secretary (Management) -- it's just the Secretary, the Deputy Secretary, the Chief of Staff and the Executive Secretary).***

_____ Agree _____ Disagree _____ Let's discuss

Although Council meetings with the IRS and with the Office of the Secretary generally will be open to the public in accordance with the Federal Advisory Committee Act, we recommend that a designated Federal officer or employee be permitted to close certain meetings in accordance with FACA to the extent that information to be discussed in such meetings is of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy, or is procurement-sensitive information, business confidential information obtained from a business, or information the premature disclosure of which would significantly frustrate implementation of an agency action.

> *Note that this existing statutory exemption may not be broad enough to cover discussions of the performance of high-level IRS officials.*

_____ Agree _____ Disagree _____ Let's discuss

We recommend that the Council be required to prepare an Annual Report to Taxpayers in order to ensure transparency for its influence on tax administration policy and that the Secretary be required to transmit the Report to Congress.

_____ Agree _____ Disagree _____ Let's discuss

IV. Leadership

In order to ensure that the IRS has continuity of leadership and that it remains responsive to policy direction from an Administration, we recommend that the Commissioner of Internal Revenue be appointed for a five-year term. This leadership arrangement emulates the law enforcement model set by positions such as the Director of the FBI.

> *Note that the FBI Director serves a ten-year term, and some may ask why the same term of years would not be appropriate for the Commissioner of Internal Revenue. The answer may be that the Commissioner's substantial civil administrative responsibilities make ten years inappropriate.*

_____ Agree _____ Disagree _____ Let's discuss

Attachments

Tab A	Current MMB Structure and Membership
Tab B	Draft Executive Order
Tab C	Draft Advisory Committee Charter

CHARTER

Department of the Treasury Modernization Management Board

Purpose:

The Department of the Treasury Modernization Management Board (MMB) is established to strengthen and enhance the Departmental Offices' oversight of the Internal Revenue Service's Tax Systems Modernization (TSM) program.

To accomplish this, the MMB will:

- Provide strategic direction affecting policies for and management of IRS' TSM program;
- Approve major decisions on and oversee priorities, resource allocations, and implementation schedules through periodic monitoring at strategic decision points;
- Ensure appropriate IRS follow-up actions on needed corrective actions; and
- Review and approve IRS Modernization performance measures and oversee the realization of management goals.

Responsibilities:

The MMB shall serve as the primary review and decision body for strategic decisions including the following; TSM direction, strategy, budgets, and significant information technology investments and disinvestments and communicating Departmental decisions to IRS. In exercising its responsibilities, the MMB will serve as a vehicle for integrating long-term strategic concerns with external oversight concerns, and for significantly building upon existing Departmental review and oversight processes without duplicating their functions. To accomplish this, it will:

- Oversee IRS implementation of improved management processes, including adoption of GAO's "Best Practices" for strategic information management;
- Coordinate the efforts of experts retained by Treasury to review plans for and progress of IRS Modernization;
- Coordinate Departmental oversight of planning, budget (plans and expenditures), procurement, information systems, human resource and management issues related to IRS Modernization, including the development

and oversight of all performance goals, measures, and results and integrate these into the Treasury Department position; and

- Facilitate Treasury Department support of IRS Modernization efforts with external oversight bodies, including the Office of Management and Budget (OMB), the General Accounting Office (GAO), and the Congress.

Membership of the MMB:

The Deputy Secretary will Chair the board. Membership of the group shall include the following:

- Assistant Secretary for Management & CFO
- Assistant Secretary (Tax Policy)
- Deputy Assistant Secretary (Departmental Finance and Management)
- Deputy Assistant Secretary (Information Systems)
- IRS Commissioner
- IRS Deputy Commissioner
- IRS Associate Commissioner for Modernization
- IRS Chief Information Officer

The following will serve as advisory members:

- Assistant Secretary (Legislative Affairs and Public Liaison)
- General Counsel
- Inspector General
- Director of Security
- IRS Chief Taxpayer Service/Compliance
- IRS Chief Management and Administration
- IRS Chief Inspector

- Deputy Director for Management, OMB
- Director Office of Federal Procurement Policy, OMB
- Treasury Procurement Executive
- IRS Assistant Commissioner for Procurement
- Senior Advisor to the Vice President (NPR)

The Chair may establish subcommittees of the MMB to undertake specific projects or address particular concerns. Subcommittee members may include senior Treasury and IRS officials and staff and other members designated by the Chair.

Approach:

The TSM Congressional reports will be used as the baseline for monitoring critical deliverables and commitments for the program. The board will use the outputs of the IRS' current TSM program management efforts, specifically the Investment Review Board (IRB). The IRB will be a primary vehicle for surfacing recommendations and issues to the MMB. (Deputy Assistant Secretaries for Departmental Finance and Management, and Information Systems, respectively, are members of the IRB).

Agenda

Nominations for agenda items may be submitted for consideration by either IRB or MMB members. A subset of the IRB, at a minimum to include the Associate Commissioner for Modernization and MMB Executive Director, will determine which IRB status items or update information should be provided to the MMB for agenda consideration. The IRS Commissioner, Assistant Secretary for Management & CFO, MMB Executive Director, and Chair, can identify issues for the MMB, at their discretion.
The standing agenda for MMB meetings is as follows:

- IRB review/status update
- Performance Measures for Modernization status update
- Critical Program Initiatives (CPI)
- Administrative issues

The Executive Director will develop and present a proposed agenda to the Chair for approval. The agenda will be approved and published 30 days in advance to ensure appropriate analysis and preparation.

Method of Operation:

The Chair may call or cancel meetings at his discretion. Meetings will be scheduled monthly for the remainder of FY 1996, and bi-monthly beginning in FY '97.

The Executive Director will have responsibility for ensuring any issues requiring MMB decision or input are identified and ready for presentation. The Executive Director may also have a pre-meeting with the Chair to provide a background briefing prior to the meeting when appropriate.

The Staff Director will have responsibility for administrative and logistical support of meetings, including documentation of the minutes. An historical record of all activities should be kept, along with a running list of follow-up items that are raised. These issues should be dated and aged, to be recurring agenda items at pre-determined time intervals.

Staff Support:

The Assistant Secretary for Management & CFO, in consultation with the Chair, will designate the Executive Director. Staff support for the MMB will consist of a Staff Director, contractors, analysts, and support personnel. The Executive Director will serve as a senior advisor to the Chair, through the Assistant Secretary for Management & CFO.

Funding:

The Executive Director shall prepare an annual budget for the MMB for approval by the Chair. The budget will be executed on an annual basis.

The funding amount to support this Charter and the related memorandum of agreement for funding salaries and expenses will be provided from TSM funds legally available for this purpose.

Amendments to the Charter:

The Charter may be amended as necessary by consent of the Deputy Secretary.

DRAFT

May 19, 1997 (12:34pm)

Executive Order _____ of May __, 1997

IRS Management Board

By the authority vested in me as President by the Constitution and laws of the United States of America, including 31 U.S.C. §301 and 26 U.S.C. §7801(a), and in order to establish a permanent oversight board to assist the Secretary of the Treasury ("Secretary") in ensuring effective management of the Internal Revenue Service, it is hereby ordered as follows:

Sec. 1. *Establishment.* There is hereby established within the Department of the Treasury the Internal Revenue Service Management Board ("IRSMB"). The IRSMB shall consist of: (a) the Deputy Secretary of the Treasury as Chair;

(b) the Assistant Secretary (Management), as Vice-Chair;

(c) the following members:

(1) the Assistant Secretary of the Treasury for Tax Policy;

(2) the Deputy Assistant Secretary of the Treasury (Departmental Finance and Management);

(3) the Deputy Assistant Secretary of the Treasury for Information Systems and Chief Information Officer;

(4) the Assistant Secretary of the Treasury (Legislative Affairs and Public Liaison);

(5) the Inspector General of the Treasury;

(6) the General Counsel of the Treasury;

(7) the Director of Security of the Treasury;

(8) the Treasury Procurement Executive;

(9) the Commissioner of Internal Revenue;

(10) the Deputy Commissioner of Internal Revenue;

(11) the Chief Information Officer (IRS) and Associate Commissioner of Internal Revenue for Modernization;

(12) the Deputy Director for Management (Office of Management and Budget);

(13) a representative of the Office of the Vice President;

(14) a representative of the Office of Management and Budget;

(15) the Director, Office of Federal Procurement Policy (Office of Management and Budget);

(16) a representative of the Office of Personnel Management; and

(17) such representatives of other government agencies as the Secretary designates;

(d) The Secretary may appoint additional members who are officers or employees of the Department of the Treasury; and

(e) The Secretary may remove any members who are officers or employees of the Department of the Treasury.

(f) The President, National Treasury Employees Union, may attend IRSMB meetings as an observer.

Sec. 2. *Structure.* There shall be an executive committee of the full Board, the members of which are appointed by the Secretary.

Sec. 3. *Functions.* (a) The Board is established to support directly the Secretary's oversight of the management and operation of the Internal Revenue Service. (b) This includes:

(1) working through the Deputy Secretary, assisting the Secretary on the full range of high-level management issues and concerns affecting the Internal Revenue Service, particularly those that have a significant impact on operations, modernization and customer service;

(2) acting through the executive committee, serving as the primary review and ***decision making body*** for strategic decisions concerning modernization of the Internal Revenue Service, including modernization direction; strategy; significant reorganization plans; performance metrics; budgetary issues; major capital investments; and compensation of personnel; and

We haven't really wrestled to the ground the role of this board -- the italicized language would carry over the MMB charter description, which may overstate to some extent the role that the MMB has played and could be read to detract from the Secretary's responsibilities. The most recent writing describes the role of the executive committee as having "responsibility for approving" decisions on a series of issues.

(3) meeting monthly and preparing semi-annual reports to Congress, which the Secretary of the Treasury transmits to Congress.

Sec. 4. *Administration.* To the extent permitted by law, and subject to the availability of appropriations, the Secretary shall provide the Board such administrative services, funds, facilities, staff and other support services as may be necessary for the performance of its functions under this order.

Sec. 5. *Judicial Review.* This order is intended only to improve the internal management of the Internal Revenue Service, and is not intended, and shall not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees.

WILLIAM J. CLINTON

THE WHITE HOUSE,
, 1997

DRAFT

Charter for the National IRS Council to the Secretary of the Treasury

This charter is prepared and filed in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92-463, enacted October 6, 1972.

A. Official Title. The group's official title is the National IRS Council to the Secretary of the Treasury. The group is commonly known as the "National IRS Council" (hereinafter, "the Council").

B. Objectives and Scope. The purpose of the Council is to provide advice to the Secretary of the Treasury on ways to improve the management and operations of the Internal Revenue Service (IRS) based upon experience in the private sector. The Council's members may review and provide recommendations concerning current or proposed IRS policies, programs, procedures and plans. This includes advising the Secretary on budget matters relating to the IRS and tax administration.

The Secretary may determine the size and organizational representation of the advisory group in order to obtain balanced membership. Membership shall include individuals drawn from: (1) Fortune 500 companies; (2) small business, (2) the information technology industry; (3) current state tax administrators; (4) leading tax professionals (accountants and attorneys);[1] (5) the non-profit or education sector; (6) community leaders; and (7) the tax preparer industry. Members may be appointed in an individual or representative capacity. Nominations are solicited from professional organizations, public interest groups, employee organizations, the Office of Management and Budget and Congress. The committee shall contain up to fourteen members.

The activity of the Council is based on the authority of the Secretary of the Treasury to administer and enforce the internal revenue laws conferred by section 7802 of the Internal Revenue Code (Title 26, United States Code).

C. Time Period. The Secretary of the Treasury has a continuing need to receive advice on tax management issues. Therefore, the Council is a continuing advisory group which operates under a two-year charter.

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[1]*No non-attorney/accountant tax professionals? It undoubtedly will create problem for us with enrolled agents, who are individuals specially licensed by IRS to represent taxpayers before IRS.*

DRAFT

D. Reporting. The Council reports to the Secretary of the Treasury.

E. Support Services. The Department of the Treasury provides the necessary staff and support services for the Council.

F. Duties. The Council's duties are to research, analyze, consider and make recommendations on a wide range of tax management issues. Reports and recommendations are made directly to the Secretary or his designee, except that the Council prepares an Annual Report to Taxpayers, which the Secretary transmits to Congress. The Secretary or his designee has sole responsibility for any action to be taken with respect to the Council's recommendations.

G. Annual Operating Costs. The estimated annual operating costs are $_____ and ___ staff years. Annual operating costs include travel, staff salary and representation fund operating expenses. Committee members are not paid for their time or services. Members will be reimbursed for their travel-related expenses (transportation, lodging, meals and incidental expenses) based on Federal travel regulations for public meetings or scheduled working group sessions.

H. Number and Frequency of Meetings. The Council meets four times a year with the IRS and reports to the Secretary of the Treasury in connection with each such meeting. Meetings generally are public, but may be closed as, and to the extent, warranted by the subject matter.

I. Termination Date. A termination date of two years from the signing of this charter has been established.

J. Filing Date. The date of filing for establishment of this charter is _____.

Approved by:

_____ _____

Robert E. Rubin Date
Secretary of the Treasury

1997-SE-006474

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

GENERAL COUNSEL

June 13, 1997

MEMORANDUM FOR SECRETARY RUBIN
DEPUTY SECRETARY SUMMERS

FROM: EDWARD S. KNIGHT ESK
SHERYL SANDBERG

SUBJECT: IRS Restructuring Commission: Next Steps

I. Overview

On Wednesday, June 25, the IRS Restructuring Commission will be releasing its report. On Tuesday, June 17, we will review with you the contents of that report and raise some strategic issues relating to it. Also, on June 19, Deputy Secretary Summers will testify before the Senate Treasury Appropriations Subcommitee at which Senator Bob Kerrey will also testify.

II. Background

By way of background, the Commission held its first meeting on July 29, 1996, and since then has had twelve days of public hearings and three town meetings. As you know, there were numerous executive sessions of the Commission in which the real work was done. The Commission claims to have held over 100 hours of Task Force meetings and to have interviewed more than 500 individuals in the course of its work.

A. Process

In terms of the process that the Commission would follow, we expressed early concerns that the Commission not turn into an investigatory body that would issue subpoenas and needlessly disrupt the work of the IRS. Fortunately, this investigatory approach was not taken. Second, despite the fact that the statute establishing the Commission stated clearly that the IRS Commissioner was an ex-officio member, initially some members of the Commission resisted including Commissioner Richardson. In the end, she was included in much of the Commissions deliberations. Third, the Commission staff was initially resistant to including IRS officials in the panels of witnesses on discrete topics, such as quality improvement and technology. Again, the Commission recognized the need to take a more responsible course and included the IRS in the hearings.

Finally, throughout the deliberations of the Commission, the Treasury and IRS pointed out numerous errors and inappropriate

statements in the Commission's draft. For instance, at one point the Commission's report was to include a lengthy section on the Commission's findings. Of course, the term "findings" implies factual statements. However, many of the statements in this section were without factual foundation. The Commission abandoned this approach.

B. Issues Other Than Governance

Nevertheless, as you know well, the Commission's report is fundamentally flawed. In particular, as we have discussed, the governance proposal poses serious risks with the revenue collection process in this country. Our briefing next Tuesday will focus on this and other aspects of the Commission's report that deserve attention. For instance, we need to discuss the following:

(1) The Commission has proposed major changes with regard to filing dates for electronic and paper filing as well as information returns. These proposed changes could significantly increase the cost of borrowing from the U.S. Treasury and would favor wealthy taxpayers over the less wealthy.

(2) The Commission's report aggressively embraces electronic filing. We need to be prepared to express our views on that subject in some detail.

(3) A number of the Commission's ideas in the area of tax simplification are poorly reasoned or simply restatements of proposals from special interests. For instance, the Commission proposes to allow life insurance companies to file consolidated returns for their life and non-life operations. Also, the Commission proposes to establish a family allowance by consolidating the present law standard deduction, personal exemption, dependent care credit, earned income tax credit and the proposed child credit into one "family allowance," the purpose of which is to eliminate tax complexity for working individuals. Additionally, the Commission proposes to "replace current itemized deductions with a reduced family allowance for individuals taking deductions for qualifying mortgage interest, charitable contributions, and state and local taxes." With regard to the EITC, the Commission states that "Congress and the President should work together to simplify the EITC, maintain its high participation rate and reduce it's overpayment rate to below 10%." All of these simplification proposals are in a section that is "forwarded without endorsement to the Committee on Ways and Means, and the Committee on Finance."

(4) The Commission is more explicit in endorsing specific legislative changes in the area of taxpayer rights. Some of these are not well reasoned. For example, the Commission

proposes to raise the net worth ceilings that limit relief available to individuals and corporations for recovery for administrative and litigation costs when the IRS position is not substantially justified. Under the Commission's proposal, Congress would raise the net worth ceilings to $5 million for individuals and $35 million for businesses. Also, under the taxpayer rights set of recommendations, the Commission would give the National Archives and Records Administration access to IRS records which would result in those records being made public after a period of 40 years.

By and large, many of the more objectionable proposals that we mentioned to you earlier, such as the elimination of the EITC and its conversion into state block grants, were eliminated over time due to persistent objection by a number of Commissioners.

III. Strategy for June 25

We have had several internal meetings to discuss the appropriate strategy for June 25. Many questions remain but we seem to have reached consensus on a few points.

(1) We should identify and have prepared a number of validators from outside of the Treasury Department who could concur in our views with regard to the Commission.

(2) We should have a set of materials prepared for release by the Department on June 25 to supplement the Commission's release. These materials could include our minority views and key correspondence, such as that from supportive former Commissioners of the IRS and the Office of Legal Counsel at Justice.

(3) We are attempting to obtain from the Justice Department's Civil Division, or perhaps from the Attorney General herself, a letter concurring in Treasury's concerns with regard to the impact of a private sector dominated board upon the administration of law enforcement at the IRS.

(4) We need to consider making news ourselves in the days leading up to June 25 by, for instance, announcing the selection of some of the members of the outside advisory committee, issuing the Executive Order and announcing the Treasury Order.

We have begun the process of writing fact sheets and assembling documents for release on the 25th. Attached for your further study are key excerpts from the draft report. On Tuesday, June 17, we will review the above questions with you and answer any further questions that you may have.

Attachments

cc: Linda Robertson
Howard Schloss
Michael Froman
Bob Boorstin
Michelle Smith
Bob Bean

IRS

Rubin Renews Administration's Attack On Independent IRS Governing Panel

Treasury Secretary Robert E. Rubin renewed the administration's attack June 12 on a National Commission on Restructuring the Internal Revenue Service proposal to implement an independent, mostly private sector board of directors for the beleaguered agency.

Commission co-chairs Rep. Rob Portman (R-Ohio) and Sen. Robert Kerrey (D-Neb) are "100 percent wrong" in their ideas for the new seven-member panel, which would consist of five private-sector individuals and two government officials, Rubin said.

"Overseeing the IRS is not a part-time job," said Rubin, speaking at a meeting of the Council for Electronic Revenue Communication Enhancement. The agency's budget, personnel, technology and strategic decisions "should not be put in the hands of sporadic and part-time managers," Rubin said, reiterating concerns that control of the agency's purse strings also denotes control of law enforcement resources.

However, commission chief of staff Jeffery Trinca, speaking at a separate session of the CERCA meeting contended that the members of the panel would be "government officials in every sense of the word."

Special Government Employees? Trinca said the panel members would fall under the federal definition of "special government employees" because they would be appointed by the president and approved by the Senate, and could be fired at will by the president as well. He acknowledged that the board would be part time, but stressed that most successful public and private organizations have part-time directors who focus on high-level strategy.

"We do not want another group of people micromanaging every decision of the top officials of the agency on a daily basis," Trinca said.

Rubin said the change would represent too much of a shakeup and be a dangerous change at an agency whose activities fund nearly all government operations.

"I don't believe we can afford to put an agency that generates 95 percent of our revenue at risk," said Rubin.

Trinca said he disagreed. "Believe me, if the agency can survive the Treasury Department's historic pattern of neglecting its oversight responsibilities. . .it can survive this," he said, noting that the majority of tax collection in the nation is done by payroll departments, not IRS.

The commission chief of staff told BNA he would step down from his post on July 1, a week after the final recommendations are expected to be issued. Doug Shulman, who now serves as the commission's senior policy adviser, will take over as chief of staff until the commission is dismantled later this year, Trinca said.

Legislation based on the commission recommendations is expected to be introduced in early July.

By Alison Bennett

Employment Taxes

Ways and Means Approves Changes in Unemployment Taxes

The House Ways and Means Committee late June 10 approved changes to unemployment insurance and taxes as part of the welfare provisions of the budget reconciliation package.

The committee agreed to several provisions dealing with the Federal Unemployment Account (FUA), which provides authority for loans to states with insolvent unemployment insurance benefit accounts. Republicans on the committee said the changes are designed to maintain high balances in state and federal UI accounts, the committee said.

First, the FUA account ceiling would be doubled to 0.50 percent of covered wages, up from 0.25 percent, effective Oct. 1, 2001. This would result in more FUA revenues being held in federal accounts rather than being transferred into state benefit accounts.

The committee approved language that limits to $100 million a year the amount transferred from the federal UI accounts to state accounts that are used in administering state UI programs. Additional amounts, if any above the $100 million limit per year, are to be returned to the FUA, notwithstanding the amount ceiling, according to the package the Ways and Means Committee endorsed.

The panel also added a provision authorizing funds "for state UI integrity activities." The language would authorize $89 million for fiscal 1998, $91 million for fiscal 1999, $93 million for fiscal 2000, $96 million for fiscal 2001, and $98 million for fiscal 2002, according to the package.

The committee also endorsed language that Rep. Clay Shaw (R-Fla) said would clarify that states have the authority to set their own "base periods" for unemployment compensation. Base periods indicate the amount of time an employee must work to qualify for unemployment insurance. The issue was raised in the 1994 Seventh Circuit decision in *Pennington v. Doherty* and targeted in a hearing by Shaw's panel in April.

Shaw said the amendment was needed because without some clarification, some 40 states may be forced to change their base periods, costing the states millions of dollars.

Tax Legislation

Ways-Means Continues Tax Markup, Defeats Wide Range of Amendments

The House Ways and Means Committee slogged through a second day of debate on the tax package offered by Chairman Bill Archer (R-Texas), with the panel turning back a wide variety of amendments offered by Democrats to expand the package's provisions on the child credit and education tax incentives, and to modify the way the bill applies capital gains relief.

The committee did, however, approve a handful of amendments. One, offered by Rep. Xavier Becerra (D-Calif), would expand student-loan forgiveness rules under Internal Revenue Code Section 108(f) so that they

Section 5—Electronic Filing

Electronic filing holds great potential to increase cost savings and compliance with only a small investment by the IRS. With a cohesive plan to market and implement electronic filing, the IRS can improve its customer service capabilities, modernize its processing functions, and facilitate more efficient compliance efforts. Such a plan must eliminate barriers and provide benefits and incentives for practitioners and taxpayers.

Introduction

The IRS presently receives approximately 205 million tax returns each year. The largest workload involves the nearly 120 million individual tax returns. The ten service centers process paper returns using an error prone process during which approximately forty percent of the tax return data is entered and perfected manually. The error rate for this data capture and perfection process is approximately twenty percent, half of which is attributable to the IRS. Because electronically filed returns usually are prepared by computer programs with built in checks, undergo pre-screening by the IRS, and experience no key punch errors, these returns have an error rate of less than one percent.

Presently over one half of all individual tax returns exist in electronic format prior to submission to the IRS. Practitioners usually prepare returns on their computers, but print them out and send them to the IRS on paper. Digital-to-paper-to-digital conversion inefficiencies, including physical handling of the paper returns, opening of mail, physical arranging and batching of paper documents, and error prone manual data entry, add to the cost of processing paper returns. Common sense tells us that information already in electronic format should be transmitted directly to the IRS, avoiding these redundancies and inefficiencies.

In addition, the pipeline (IRS paper return processing function) still uses antiquated equipment, such as the Distributed Input System (DIS) and Remittance Processing System (RPS), to input information from paper documents. Installed in 1984 and 1978, respectively, these systems experience significant downtime and slow operator productivity.

In 1993 the IRS established an electronic filing goal of eighty million tax returns by 2001. However, the IRS has not yet developed a comprehensive, plausible strategy to meet this goal. Better marketing to taxpayers, elimination of taxpayer burdens and barriers, increased cooperation with tax practitioners, and lower costs of filing are the keys to greater electronic filing. Previous efforts at marketing have focused almost exclusively on those taxpayers concerned with quick refunds. The IRS must reach beyond this group of taxpayers and develop appealing strategies for various segments of taxpayers and practitioners in order to achieve its stated goal.

The IRS reports that it could accept over 100 million electronically filed returns annually without requiring any new systems development effort. However, to accomplish this goal the agency needs to put in place additional building blocks, including acceptance of all form types, internet capability, and paperless payment.

1. Strategic Marketing Plan

The IRS must develop a strategic marketing plan to make paperless filing the preferred and most convenient means of filing for the vast majority of filers in ten years.

The IRS needs a strategic marketing plan to make paperless filing the preferred and most convenient means of filing for the vast majority of filers in ten years. This goal can be achieved through increased industry partnership, elimination of barriers, use of competitive market forces to lower costs, additional benefits to taxpayers, and changes to IRS systems and procedures.

In promoting movement toward electronic filing, a key element is cooperation with paid preparers. In testimony to the Commission, however, there was an overwhelming response from relevant stakeholders that the IRS has not partnered with external stakeholders to increase the level of electronic filing, and that the IRS does not make it easy for practitioners or individuals to file electronically.

The current electronic filing process can be complicated, and measures to protect against fraud can increase the complexity unnecessarily. To help move taxpayers toward electronic filing, many tax practitioners believe that these barriers should be removed by:

- Making the process truly paperless by eliminating the current requirement to file Form 8453 to obtain the taxpayer's signature;
- Reducing the cost to the taxpayer for electronic filing;
- Marketing electronic filing beyond that segment of taxpayers who desire a quick refund;
- Enabling taxpayers to file all forms electronically;
- Streamlining the annual procedures for certification as an electronic return originator;
- Enabling taxpayers to submit supplementary notes, explanations, or elections when filing electronically; and
- Eliminating the erroneous perception that electronically filed returns are prone to greater audit scrutiny.

The IRS has not achieved its original objectives for electronic filing because its current program has limited appeal to taxpayers and practitioners. The Commission has concluded that no single modification will change taxpayer or practitioner behavior, and that a comprehensive plan to remove barriers, increase benefits, and broaden the appeal of electronic filing to all segments of the taxpayer and practitioner population is essential. Based on extensive discussion with relevant stakeholders, the Commission has developed such a plan, which is presented in Appendix G. Because many elements of any comprehensive plan to increase electronic filing require legislative action, Congress should act immediately so that the IRS can begin to implement the plan.

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Because the IRS will need continued input from practitioners as it implements its electronic filing strategy, it should consider institutionalizing this partnership by establishing an Electronic Commerce Advisory Group (ECAG) to address issues of mutual concern to IRS and the practitioner community. For example, the ECAG could work with IRS to develop marketing campaigns to encourage electronic filing and educate taxpayers about its benefits.

2. Incentives for Electronic Filing

Congress should eliminate barriers, provide incentives, and use competitive market forces to increase electronic filing.

Many external stakeholders support electronic filing because they believe it reduces burden for themselves and taxpayers, in addition to reducing burden for the IRS. Presumably, as the volume of electronically filed returns increases, demand in the marketplace will drive down prices for electronic filing. Most tax practitioners charge for electronic filing today because they incur additional expenses, including costs of communications and third party transmitters. Surveys indicate that the cost of electronic filing is a disincentive to taxpayers to file electronically. The Commission expects that more taxpayers would file electronically, but for this cost.

To expand the appeal and broaden the benefits of electronic filing, the IRS strategic plan should incorporate a range of features that makes electronic filing attractive to both taxpayers and practitioners, including the following:

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- Paperless filing;
- Extended due dates for electronically filed returns;
- Acceptance of all 1040 forms and attached schedules;
- Regulation of all paid preparers;
- Incentives for filing electronically; and
- Secure access to taxpayer account data for taxpayers who file electronically.

Incentives

Because increased electronic filing will yield significant cost savings for IRS, some sharing of these savings with stakeholders may provide a useful incentive. A combined incentive and mandate plan would help to increase levels of electronic filing, particularly if it facilitated free electronic filing. In the plan outlined in Appendix G, the IRS would pay transmitters an incentive for each return filed electronically. Assuming that transmitters shared these incentives with originators based on market competition, this plan should facilitate increased electronic filing when coupled with requirements for practitioners to file returns electronically at some point in the future. As the level of electronic filing increases, the incentives could be phased out.

Realignment of return submission deadlines

Realigning the due dates for tax and information returns would provide a more realistic timetable for submission and incentives for electronic filing, as well as leveling the workload of IRS and

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tax practitioners. In addition to tax returns, the IRS and the Social Security Administration (SSA) receive and process over 1.1 billion information returns each year—including Forms 1098, 1099, and W-2—many of which are received in magnetic format. The IRS has reported to the Commission that it receives more than five million updated, corrected information returns during the year, impeding document matching between tax and information return documents. In addition, significant numbers of returns are corrected by taxpayers prior to submission, and untold numbers of returns are never corrected. Several stakeholder groups informed the Commission that the current due dates for W-2s and some 1099s can impose burdens on both small businesses and large providers of information returns, such as brokerage houses. While some may argue that extending the deadlines for information reporting would delay information reporting further, this logic ignores the complexities of taxpayer compliance processes and problems. In relieving these burdens for information reporting, the Commission expects that providers will continue to provide information returns to taxpayers as soon as the information is available. Sufficient time to perfect data would allow taxpayers to submit accurate information returns, eliminating the duplicative work caused by corrected return submissions and reducing extension requests. change

Moving toward a system that increases the opportunity for perfected data to be submitted electronically, accompanied with time between entity reporting and individual reporting, would establish the foundation for return free filing for many individual taxpayers.

3. Modernizing return processing

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The IRS should use technology to update its return processing approaches.

Increased electronic filing would facilitate IRS compliance efforts, allowing the IRS to receive information and tax returns and match data during the same calendar year. Moreover, better data capture capability will facilitate customer service. At present, only forty percent of data on individual income tax returns is entered into IRS computers. To improve compliance and customer service, the IRS must modernize its return processing approach to reflect the realities of the information age.

As levels of electronic filing increase, the IRS should capitalize its savings by managing and consolidating service center pipeline capacity to maintain paper return refund processing times at six weeks.

The IRS must process returns more efficiently once they are received. In particular, the IRS should consider aggressive plans to improve processing paper and electronic returns through managed competition. Such plans should include incentives to encourage electronic return processing. A major challenge to the IRS will be management and consolidation of its service center pipeline capacity as the number of electronically filed tax returns increases.

Finally, the IRS should pursue simplification efforts that would allow more taxpayers to use Forms 1040EZ and 1040A, which are simpler to file and process. In particular, such efforts should include expansion of the TeleFile program to more taxpayers.

Appendix G
Electronic Filing Supplementary Information

The Commission believes that IRS must develop and implement a strategic and marketing plan to make paperless filing the preferred and most convenient means of filing for the vast majority of taxpayers. This vision can be achieved over a ten-year period by using existing infrastructure such as tax practitioners, financial institutions, and the Internet as intermediaries for submitting tax returns to the IRS. The obstacles to achieving this vision are not necessarily the cost of developing information technology systems, but entering into a partnership with practitioners and financial institutions that would provide burden reductions and incentives for filing tax returns electronically.

Processing workload

Table G-1 illustrates IRS tax return processing workload for 1995. IRS estimates that 120 million individual tax returns will be filed in Tax Year 1996, of which approximately half, or 60 million, will be prepared by paid tax preparers. Virtually all of these 60 million returns are prepared using tax preparation software. Another 10 million or more tax returns are filed by self preparers who use consumer-oriented tax preparation software products.

Table G-1. Return Types Received by IRS for Tax Year 1995

Return Type	*Forms*	*Volume*	*Electronic Volume*
Individual income tax	1040 family	116,298,325	11,142,582
Estimated tax	1040ES	35,475,945	0
Fiduciary	1041	3,187,143	6,889,074
Fiduciary estimated tax	1041ES	583,473	0
Partnership	1065	1,571,872	0
Corporation income tax	1066 and 1120 series	4,780,956	0
Estate tax	706 series	82,860	0
Gift tax	709	215,010	0
Employment taxes	940 series, CT-1, and 1042	29,006,291	0
Exempt organizations	990 series, 5227, and 4720	560,057	0
Employee plans	5500 series	1,261,700	0
Excise tax	720, 730, 2290, and 11C	787,011	0
Supplemental documents	1040X, 1120X, 2688, 4868, 7004, 8752, 1041A	11,936,542	0

Costs

IRS estimates the average cost of processing all paper returns at $2.65 a return, but acknowledges that this figure did not include all cost. Similarly, the costs of processing electronic returns was estimated at $1.15, including the processing of paper signature documents. The IRS is conducting a cost study to determine the actual costs. The Commission has received an estimate from the Private Sector Council that a project by a Fortune 100 company to automate paper processing experienced a six to one cost

differential of paper to electronic processing costs. This represents a significant cost savings for the IRS if the number of electronic returns can be increased significantly.

In addition to labor, overhead, and management costs to operate the returns processing pipeline, there are other cost reductions that could be realized with an increase in electronic filing, such as the following:

- Heavy dependence on manual labor creates additional recruitment and training costs for IRS since it causes spike demands for low cost labor that is not always available.
- Facility and physical handling equipment associated with paper filing is much higher than that used for electronic returns.
- After the data is manually entered into the data base, the paper return is archived. Storage costs for paper returns are higher than those for electronic returns. Any subsequent need to access a return, such as an examination or collection, or requests by taxpayers for a copy of the return, results in retrieval costs as well.

To save processing costs, the IRS currently only captures in electronic form 40% of the information submitted on paper returns. All paper data submitted by taxpayers is archived, however. After a return is posted to the Master File, IRS uses automated algorithms to detect conditions that may warrant an examination. For those returns selected for further evaluation, the paper return must be retrieved from archives, and examined manually. With electronic returns, 100% of data submitted are captured and archived electronically. This situation provides the opportunity for the IRS to enhance its detection algorithms to use an expanded set of data, while also reducing the need for retrieval of suspicious paper returns. Since this type of examination occurs without any taxpayer contact, it is the least intrusive type of examination.

Reasons for failure of existing electronic filing program

The Commission believes that the failure of electronic returns to increase at rates originally projected by the IRS does not represent a technical failure by the IRS, rather a failure to plan and market electronic filing in an organized, thoughtful manner. This was reported to IRS as early as July 1995 by GAO, which reported that IRS had no comprehensive business strategy for promoting the benefits of electronic filing to all taxpayers. Rather, its strategy was aimed only at taxpayers desiring a quick refund. Without a comprehensive strategic plan, GAO believed that IRS would not achieve their stated goal of 80M electronic returns by 2001. The Commission believes this situation is still true today. No comprehensive strategy has been made available to the Commission, although a high level issue paper was released by IRS in February, 1997.

In an interview with Mr. Peter Simpson, Second Commissioner for the Australian Taxation Office (ATO), he stated that the technology costs for electronic filing were low, but the real keys to success were marketing the service properly and letting the private

sector develop products in the marketplace. The Commission has received testimony and input from the practitioner community that would confirm ATO's experience.

Information returns and document matching
Electronic filing of both tax and information returns aids earlier document matching. With today's filing profile and legacy systems, IRS delays the identification of underreporter cases for over a year until all the documents are ready to be matched. Receipt by taxpayers of underreporter notices 18 months after filing increases the likelihood of missing taxpayer records and builds taxpayer resentment against the IRS due to the accumulation of interest and penalties.

Although it is not currently possible to perform document matching before a refund is issued, electronic filing of information returns could allow IRS to perform document matching in the same calendar year during which a tax return was submitted. Underreporter cases could then be pursued in a more timely manner. The IRS should perform income reporting verifications through matching of 100% of submitted information documents. IRS also should include the Schedules K-1 as part of the document matching process.

Plan for Making Electronic Filing More Attractive to Taxpayers and Practitioners

The Commission's comprehensive plan for increasing electronic filing is summarized in Table G-2. The Commission believes only a comprehensive plan that appeals to all segments of the taxpayer and practitioner population can make electronic filing the preferred and most convenient method of filing for the vast majority of Americans. Features of the plan are described in the following paragraphs. While this plan focuses on individual tax returns because they constitute the bulk of the IRS processing workload, the Commission emphasizes that plans should be established to encourage all returns types, such as payroll, corporate, and partnership returns, to be filed electronically.

Partnering with stakeholders
IRS needs an improved sense of partnership with tax practitioners, other organizations that supply data, and state tax administrators. We recommend IRS establish an Electronic Commerce Advisory Group (ECAG) to address issues of mutual concern to IRS, the practitioner community, other stakeholders, and state tax administrators. The Commission's intent in recommending establishment of this group is to establish an ongoing forum for discussing future electronic commerce issues.

The Commission envisions that the ECAG would address issues to help further electronic commerce among the member organizations, such as the removal of additional barriers faced by practitioners, simplification of the application to be an Electronic Return Originator (ERO), and plans to achieve complete participation by all states in the

Table G-2. Electronic Filing Plan for Individual Tax Returns

Feature	Implementation Year [1]												
	98	99	00	01	02	03	04	05	06	07	08	09	10
• Increased partnership between practitioners, tax software industry, transmitters, and IRS	X	X	X	X	X	X	X	X	X	X	X	X	X
⇒ Creation of an Electronic Commerce Advisory Group	X												
⇒ Elimination of paper signature document form 8453	X												
⇒ Elimination of paper W-2 filing (attached to 8453)	X												
⇒ Practitioner regulation in accordance with Circular 230 to achieve more consistent compliance checks between paper and electronic preparers		X											
⇒ Authorization for preparer to discuss return information with IRS as checkoff box on return		X											
⇒ Field for inclusion of taxpayer/practitioner notes			X										
⇒ Acceptance by IRS of all 1040 forms, with retention of paper copies of attached forms/schedules by taxpayer/practitioner for forms that cannot be electronically received by IRS (i.e., treat forms as worksheets)	X												
• Expansion of TeleFile pool to include some 1040A filers		X	X										
• Increasing pool of 1040A and 1040EZ filers by changing limits		X	X										
• Additional electronic input of information returns			X										
• Due date realignment, including extensions for electronic filers			X										
• Capability to receive all forms			X										
• Paperless payment available for taxpayers		X											
• Incentives for transmitters for filing electronic returns	$2	$2	$2	$1	$1	$1							
• Paid preparers required to file all returns electronically							X						
• Systems to allow direct home PC filing (if not already supported by marketplace)				X	X	X							
• Secure access to account data for electronic filers									X				
• Improved marketing and advertising by IRS	X	X	X	X	X	X	X	X	X	X	X	X	X
• Simpler filing methods, such as return free filing													X
Projections of Individual Tax Returns by year (in millions) [2]	119	120	122	123	124	126	128	130	132	134	136	138	140
Estimated number of electronic returns (in millions), less TeleFile	25	30	40	45	50	55	80	85	95	98	100	102	104
Estimated number of TeleFile returns by year (in millions) [2]	6.5	7.0	7.5	8.0	8.5	9.0	9.2	9.4	9.6	9.8	10.0	10.2	10.4
Remaining paper returns (in millions)	87.5	83	74.5	70	65.5	62	38.8	35.6	27.4	26.2	26	25.8	25.6
Percent of paper returns	74	69	61	57	53	44	30	27	21	20	19	19	18

Note 1: For previous tax year (e.g., Implementation Year 98 is Tax Year 1997)

Note 2: Extrapolated from IRS Calendar Year Projections of Individual Returns by Major Processing Categories, Table 13, and Tax Year 1996 TeleFile Profile, June 24, 1996

Federal/state electronic filing program. Additionally, as the IRS moves to more paperless tax administration, the ECAG is envisioned to be a forum where IRS and practitioners can mutually facilitate the ability of tax practitioners to move to more paperless business systems, such as paperless records retention systems.

Additional changes to improving partnering between IRS and preparers involve treating practitioners as valued suppliers of information to IRS. The Commission recommends such changes as elimination of filing requirements for signature documents and associated W-2s by having taxpayers retain signed 1040s and W-2s on file, regulation of all paper and electronic preparers under Circular 230 to ensure standard procedures for treatment of all tax preparers, inclusion of a checkoff box on the electronic tax return that allows taxpayers to authorize their preparer to discuss aspects of the return with IRS Customer Service Representatives, accepting of the transmitter's date/time stamp as a postmark, and development of a white field in the electronic return for tax preparers to include supplementary notes.

Elimination of Form 8453

The filing of Form 8453 has been identified by practitioners as a major impediment to the efficient filing of electronic tax returns. IRS has also reported to the Commission that the handling of these forms is largest cost element associated with the processing of electronic returns. The Commission believes that the filing of this form is unnecessary. Several models exist where organizations accept electronic tax returns without signature documents, including Canada, Australia, and the state of California. In addition, the Securities and Exchange Commission accepts electronic financial reports such as 10-Ks without signatures. In each of the above cases, the only requirement is for the originator to maintain the signed copy on file. While the Commission believes that electronic authentication technology will make electronic signatures viable on a national basis, the infrastructure does not yet exist to support such a program. The elimination of the Form 8453 should not wait until this technology is in place. A change to allow taxpayers to maintain the original signed copy of their returns will require legislative action, since current Treasury interpretation of existing law is that a signature is required.

Acceptance of all forms

Another significant barrier the Commission heard from practitioner groups is that IRS does not accept electronically every form or schedule that can be attached to the 1040. As an incentive for IRS to modify its systems to accept all attached schedules, the Commission recommends that IRS, starting in 1998, accept all 1040s electronically. If certain attached schedules cannot be received electronically by IRS, the taxpayer should simply be required to maintain these forms in their records, much like a worksheet is treated today.

Regulation of preparers

Regulation of all preparers under Circular 230 is important to the development of an improved relationship between preparers and IRS, since it applies enforceable rules of conduct to all return preparers. Our recommendation is to amend 31 U.S.C. 330 to require

all persons engaged in the business of preparing returns or otherwise accepting compensation for advising in the preparation of returns to comply with the standards of conduct set forth in Circular 230 as enforced by the Office of the Director of Practice which is established under Treasury. By holding all paid preparers to the same levels of due diligence, the proposal seeks to ensure that taxpayers are not misled by their representatives. Return preparers that violate the rules of conduct are subject to disbarment from return preparation or representation of taxpayers before the IRS. The ability of the Director of Practice to administer and enforce actions based on allegations of professional misconduct should not be compromised by the organizational placement of the Director.

Uniform requirements will increase professionalism, encourage continuing education, improve ethics, and better enable the IRS to prevent unscrupulous tax preparers from operating. Regulation under Circular 230 promotes the integrity of our tax system, places all return preparers on a level playing field, promotes voluntary compliance and standardizes the procedures for all preparers for electronic filing and other compliance procedures. Currently, commercial return preparers are allowed to represent taxpayers before the IRS at the examination level and only for returns which they prepared. Higher education and qualification criteria should continue to be enforced for representation at all levels before the IRS.The Commission does not envision complex and cumbersome registration procedures or requirements, simply a system to capture preparer information already provided on the tax forms for a database of preparers.

Realignment of due dates

The complete schedule for revised due dates is shown in Table G-3 and G-4. The Commission believes these changes better support same year document matching and possible future implementation of simpler return filing processes, such as return free filing.

Expansion of TeleFile pool

TeleFile is considered by IRS and the Commission to be a successful program. The number of taxpayers using TeleFile has increased approximately 50% in 1996 to close to 5 million filers. To encourage even more taxpayers to use this method of filing taxes, we recommend that IRS consider expanding the TeleFile pool in two ways. The first method is to expand the TeleFile pool by including more taxpayers now filing 1040A returns. This expansion is currently being evaluated by IRS and if IRS assessments indicate favorable benefits, it should be accomplished. A second approach is to expand the number of 1040EZ filers by changing the limiting conditions so that additional taxpayers could use the simpler form and thus be eligible for TeleFile.

Paperless payment

The Commission also recommends that paperless payment methods be made available to taxpayers. This option could be as simple as using the existing direct deposit blocks in reverse to authorize an electronic transfer of funds to the IRS. Other options include the

Table G-3. Information Return Preparation and Processing Dates

Information Returns[1]	Paper	Electronic	Current
Information returns due to taxpayer	February 15	N/A	January 31
Information returns due to IRS and SSA[2]	March 15	April 15	February 28
Automatic Extension of filing	April 15	May 15	none
Additional Extension of filing	N/A	N/A	March 30
Additional Extension of filing	N/A	N/A	April 29

Table G-4. Tax Return Preparation and Processing Dates

Income Tax Returns and Pass-through Entity Returns[3]	Paper	Electronic	Current
Corporate (domestic)	**March 15**	**April 15**	**March 15**
Additional Extension of filing	August 15	September 15	September 15
S-Corp	**March 15**	**April 15**	**March 15**
Additional Extension of filing	August 15	September 15	September 15
Partnership (domestic)	**March 15**	**April 15**	**April 15**
Automatic Extension of filing	N/A	N/A	July 15
Additional Extension of filing	August 15	September 15	October 15
Trusts	**March 15**	**April 15**	**April 15**
Automatic Extension of filing	N/A	N/A	July 15
Additional Extension of filing	August 15	September 15	October 15
Estates[4]	**April 15**	**May 15**	**April 15**
Additional Extension of filing	same	same	90 days up to 6 months
Form 990	**April 15**	**May 15**	**May 15**
Additional Extension of filing	same	same	90 days up to 6 months
Form 990C (cooperatives)	**September 15**	**October 15**	**September 15**
Automatic Extension of filing	same	same	March 15 of following year
Form 990T (corporation)	**April 15**	**May 15**	**May 15**
Automatic Extension of filing	August 15	September 15	November 15
Form 990T (401(a) trust)	**April 15**	**May 15**	**April 15**
Additional Extension of filing	same	same	90 days up to 6 months
Form 990T (other trusts)	**April 15**	**May 15**	**May 15**
Additional Extension of filing	same	same	90 days up to 6 months
Individuals	**May 15**	**June 15**	**April 15**
Automatic Extension of filing	July 15	August 15	August 15
Additional Extension of filing	September 15	October 15	October 15

First quarter individual estimated payment continues to be due April 15. However, with the change in return filing due dates, the prior year's tax liability will not yet be known on April 15. Therefore, the first quarter estimated payment should be based on 100% of the estimated prior year's tax with a "catch-up" on the second estimated payment (due June 15). Another safe harbor could be to raise the standard from 90% to 95% of expected current year tax.

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[1] Information returns and transmittal documents include Forms 1099, 1098, W-2, and W-3

[2] IRS receives 1099s and 1098s and SSA would be required to capture all Forms W-2 and W-3 information (including state and local). Form W-3 would be revised to add lines to report state and local payroll information.

[3] For 1994 tax return year, 5,306,301 Partnership and S-Corporation returns and 476,980 Estate and Trust returns were filed.

[4] For those estates electing a calendar year.

use of debit and credit cards. Some municipalities and states have already started allowing the use of credit cards for payment of taxes. Typically, the taxpayer must absorb the cost of any merchant fee when using credit cards to make tax payments. Receipt of tax payments could also be privatized through electronic funds transfer or submission of paper payment to a financial institution or other third party processor for electronic transfer to IRS.

Incentives

A major incentive for tax practitioners is a combined incentive and required electronic filing plan to encourage practitioners to file electronically, and requiring practitioners not to charge taxpayers extra for electronic filing if they accept the incentive payments. The Commission recommends that IRS pay transmitters an incentive for submitting electronic returns until 2004. Transmitters would be expected to share the payment with originators based on market competition. The recommended payment schedule is shown on Table G-2. A second incentive, one geared to taxpayers, is faster refund cycles.

The Commission believes that this plan offers several benefits. The incentives provide a short term benefit to transmitters and originators and provide taxpayers with free electronic filing services. Surveys indicate that the cost of electronic filing is a major reason taxpayers do not file electronically. Incentives, combined with other changes to make electronic filing more attractive, are expected to increase volume and encourage market dynamics to react with competitive products in sufficient numbers to provide taxpayers with a range of choices. Based on briefings the Commission has already received from industry, there are already signs that this marketplace development is beginning. The Commission recommends that regulations concerning electronic filing should be examined to ensure they do not impede the development of products in the marketplace that facilitate electronic filing.

In 2004 incentives come to an end and all practitioners will be required to file electronically. The Commission believes this requirement also encourages the market to develop products, while at the same time providing more than adequate time for practitioners to prepare for the requirement. Many practitioner groups have told the Commission that they support this requirement as a means to get the industry to adopt electronic filing as common practice.

Home filing

As more Americans have personal computers (PCs) in their homes, filing tax returns from home will have more appeal to taxpayers. The Commission envisions that the marketplace will develop systems that will allow taxpayers to file directly from their home PCs, and using appropriate security and privacy safeguards, independent of any IRS action. Should this situation not occur, we recommend that IRS develop systems to allow taxpayers to transmit tax returns directly to IRS using home computers. One example of a market development that could occur is for banks and other financial institutions to incorporate options for electronic filing as part of home PC banking

services, offering competitive tax filing services as part of an overall package of products available to customers. Other organizations could offer the same or similar services.

Secure access to taxpayer records
The Commission recommends that IRS allow taxpayers and their authorized practitioners who file electronic returns be provided secure access to their own account information by 2006. We recognize that this capability cannot be achieved until IRS first integrates its data bases, but we believe this capability should be planned and developed as part of modernization, and not added as an additional requirement in the next century. Banks currently offer this feature to customers who participate in home banking services. As the number of consumers participating in home banking grows, this feature becomes another capability taxpayers will expect for their IRS account as well.

Changes to IRS systems and procedures
IRS changes to complement the above actions would include less restrictions on advertising to improve taxpayer understanding of the benefits of electronic filing, acceptance of all form types and addition of a white field for supplementary notes, more frequent payment cycles for electronic returns, and expansion of IRS infrastructure to accept more than 100M returns.

Filing of Form W-2
The Commission recommends that the current threshold for magnetic/electronic reporting to SSA be lowered. The current requirement is that submitters of more that 250 W-2s must file using magnetic or electronic format. The Commission recommends this threshold be lowered to 100 W-2s, and that the threshold be applied in the aggregate to third party preparers. The immediate goal is to reduce the 53M paper W-2s, with the long range goal of using incentives to transition to electronic filing.

We also recommend a single point of filing of Forms W-2 and W-3 by having SSA capture all form information, including state and local information. Electronic submission of the majority of Forms W-2 and W-3 will reduce SSA's data capture burden. SSA should then transmit the captured data to the appropriate governmental agency. IRS must revise Form W-2 to add state and local information.

Section 7—Taxpayer Rights

A significant part of improving taxpayer service and changing the culture of the IRS involves ensuring that taxpayers are treated fairly and impartially by the IRS, are able to seek redress or review of IRS actions by the courts, and are able to resolve conflicts creatively and expeditiously with IRS cooperation.

In order to ensure that fewer taxpayers are subject to improper treatment or excessively burdened by the IRS, Congress and the IRS need to focus more attention on preventing problems before they occur. The Commission found that the passage of the Omnibus Taxpayer Bill of Rights and Taxpayer Bill of Rights 2 have had an important effect on changing the culture of the IRS. The agency spends significant resources educating personnel to treat taxpayers fairly, and the Commission found very few examples of IRS personnel abusing power. Nevertheless, with the complexity of the tax law and an agency of its size with powers to audit and collect from taxpayers, there likely will continue to be the few unfortunate examples of abuse. Many of the additional safeguards against abusive actions enacted over the last few years are helping people deal with these systemic problems, however.

1. Taxpayer Advocates

Taxpayer Advocates must be accessible by taxpayers and have the authority and accountability necessary to speak for and take actions on behalf of taxpayers.

While the national and local Taxpayer Advocates make a significant contribution to fair tax administration, there is a perception in Congress and among the public that they cannot be truly independent voices for taxpayers. This lack of independence weakens their ability to have a critical view of IRS action or inaction regarding taxpayer rights and providing specific legislative or administrative solutions to the problems facing taxpayers.

Taxpayer Advocates play an important role and are essential for the protection of taxpayer rights and to promote taxpayer confidence in the integrity and accountability of the IRS. To succeed, the Advocate must be viewed, both in perception and reality, as an independent voice for the taxpayer within the IRS. Currently, the national Taxpayer Advocate is not viewed as independent by many in Congress. This view is based in part on the placement of the Advocate within the IRS and the fact that only career employees have been chosen to fill the position. Because a candidate for the job is likely to have additional career ambitions at the IRS after performing the Advocate position, it is difficult to perceive the Advocate as independent when the position is regarded as just another assignment for an IRS executive, with the Commissioner viewing his or her performance as determining the next position. Additionally, while the Advocate has provided recommendations for improvements at the IRS, these recommendations merely tend to highlight ongoing IRS corrective efforts with little in the way of recommendations that focus attention on issues that the IRS either is doing nothing or its efforts are inadequate. Finally, what recommendations the Advocate has provided have limited value because they do not prescribe specific legislative or administrative corrections.

In a similar vein, the independence of the local Advocates is brought into question when their work is reviewed and graded by District and Service Center Directors. These managers have performance goals that in some cases are directly opposite to the goals of the Advocates. The Advocates seek to ensure that a case is handled properly and correctly, which often is a time consuming process. Conversely, District and Service Center Directors have goals of production and dollars. The changes recommended by this Report, which emphasize customer service in government, should minimize friction between the performance goals of local Advocates and the district directors to whom they report.

National Taxpayer Advocate

To ensure the independence of the national Taxpayer Advocate, candidates for this position should have substantial experience representing taxpayers before the IRS or with taxpayer rights issues. If the Advocate is selected from the ranks of career IRS employees, the selection also should be a person with substantial experience assisting taxpayers or with taxpayer rights issues, and should stipulate that it will be the employee's final position within the agency.

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The Taxpayer Advocate, as the voice of the taxpayer, will have a special relationship with the Board of Directors. The Board should be involved in the selection of the Advocate, and have final authority over the hiring decision. In addition to the Advocate's report to Congress, the Advocate should report to the Board and work closely with the Commissioner to resolve taxpayer issues internally. In addition, the Advocate should comment on any IRS policy action that the Advocate believes will cause or remedy taxpayers problems. When the Advocate believes that the Commissioner has not responded satisfactorily to these comments, the Advocate will report to the Board and the Congress. Finally, the Advocate should report annually to Congress on the significant compliance burdens for taxpayers or the IRS, including specific recommendations for remedying these problems, and, in conjunction with the National Director of Appeals, the Advocate should report annually to Congress on the ten most litigated issues (for each category of taxpayer) and provide potential solutions for mitigating disputes in those areas. change

Local Taxpayer Advocates

The Commissioner should ensure sufficient staffing of local Taxpayer Advocates (LTAs) and, at a minimum, that the number and geographic coverage is not reduced. The Commission is concerned that the current number of LTAs and their allocated time for taxpayer problem resolution is inadequate. The national Advocate should report annually to the Board and Congress as to whether LTA coverage levels and allocated time are adequate to resolve taxpayer problems and what the optimal staffing level should be.

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The Taxpayer Advocate should develop guidance on how many times a taxpayer has to contact the IRS regarding the same situation before they are automatically entitled to be referred to the LTA. This guidance should be disseminated to all IRS employees and should be provided to the public. The Board should adopt as a performance measurement whether the standard for referral to the LTA is being met.

Finally, the Commission found that the LTAs often were buried in the organization, unknown to the average taxpayer. While taxpayers who contact their congressional representative often are

funneled to an LTA, the program is not visible enough for most taxpayers to know to find an LTA when they encounter problems with the IRS. To ensure that taxpayers know how to reach an LTA, Congress should require the IRS to publish the local telephone numbers (for print and electronic mediums) for reaching the LTA in each District. Finally, the Commission recommends that the IRS develop career paths for LTAs, so that individuals can progress through the General Schedule in the same manner as examination employees, without having to leave the LTA program.

Taxpayer Assistant Orders

One of the important powers of the Advocates is the authority to issue Taxpayer Assistance Orders (TAO). Advocates rarely have used this authority, in part because problems are resolved voluntarily and because the Advocates attempt to balance their need to resolve a particular case with their need to maintain good relationships with the various IRS functions to which they regularly take cases. Practitioners state that another reason for the low number of TAOs has been the high legal barrier required to receive a TAO. A TAO may be issued if the Advocate determines that it is necessary to avoid a significant hardship to the taxpayer. The regulations explain that a "significant hardship" means a "serious privation ..... mere economic or personal inconvenience to the taxpayer does not constitute significant hardship." Because the agency has interpreted the statutory term so narrowly, very few cases are eligible for relief. During fiscal year 1996, 32,150 taxpayers requested a TAO but only 5 TAO's were granted because the Advocate determined that this barrier was not overcome. However, the IRS provided some assistance in 24,623 cases. To ensure that Advocates are able to provide relief for taxpayers who need it, Congress should also authorize the use of a TAO in situations where the IRS employee is not following applicable published administrative guidance, including the Internal Revenue Manual. Finally, when determining whether to issue a TAO, Advocates should consider the immediate threat of adverse action, delay of more than thirty days in resolving taxpayer account problems, or the prospect that the taxpayer will have to pay significant professional fees for representation.

(37)

change

2. Taxpayers' Redress

<u>Congress must provide taxpayers with adequate and reasonable compensation for actual damages incurred for wrongful actions by the IRS.</u>

While the Taxpayer Bill of Rights legislation made great strides to allow taxpayers to recover damages for IRS malfeasance, current provisions do not provide adequate relief. In addition, there are many cases in which taxpayers are not able to obtain review of IRS actions.

The primary vehicle for taxpayers' redress, section 7430 of the Internal Revenue Code, allows recovery of administrative and litigation costs when the IRS position is not substantially justified. In practice it is nearly impossible to recover administrative costs because the law does not allow recovery of costs incurred prior to the time of the final administrative notice from the IRS. Because most administrative costs are incurred between the time of the preliminary notice of deficiency (i.e., the 30 day letter) and the time of the final notice of deficiency (i.e., the 90 day letter), the present construction of section 7430 is self-defeating. Moreover, because relief is not

available to individuals and corporations above certain net worth ceilings, section 7430 denies redress for many taxpayers who suffer at the hands of the IRS.

To ensure that taxpayers are able to seek true relief, Congress should raise the net worth ceilings to $5 million for individuals and $35 million for businesses and allow the award of costs incurred after receipt of the preliminary letter of proposed deficiency. The reasonableness of attorney's fees should be determined by the court, which should take into account special factors, including the difficulty of the issues presented in the case and the local availability of tax expertise. In addition, Congress should clarify that taxpayers must be notified by the IRS of their right to appeal administrative denial of administrative and litigation costs by filing a petition with the United States Tax Court within 90 days of receiving a notice denying the application for costs, and that orders denying such relief are appealable in the same manner as other decisions of the Tax Court. Congress also should clarify that nonprofit clinics that represent low income taxpayers, and other pro bono representatives, are eligible to receive awards under section 7430, based upon the number of hours worked and costs expended. Finally, Congress should specify that if the IRS has lost a position in at least three United States Courts of Appeal, subsequent taxpayers will be entitled to recover under section 7430 because the subsequent loss would serve to indicate that the position of the IRS was not substantially justified.

rec 38

clarify

Other provisions of the Internal Revenue Code allow recovery of damages against the IRS for unauthorized disclosures of tax return information, failure to release liens, and certain unauthorized collection actions. The latter action is available only for reckless or intentional violations of the law. For example, relief is not available when the IRS takes collection actions against the wrong party, as in the case of a mistaken identity. Moreover, relief is not available when the IRS is negligent or reckless in the use of its summary examination and assessment powers. Congress should provide relief in these areas. For example, Congress could amend section 7433 to allow recovery of damages for unauthorized, improper or erroneous collection actions when the IRS is negligent, up to $100,000.

rec

3. Quality Taxpayer Service and Treatment

IRS employee performance measures and quality reviews should ensure that taxpayers receive fair, impartial, timely, and courteous treatment.

Because of weak performance measurements, insufficient training, and a lack of proper managerial review and control, examinations and collection actions can be intrusive, burdensome, and lengthy. Taxpayer assistance can be similarly frustrating and unnecessarily time consuming. Like employees anywhere, IRS personnel generally strive to do a good job as measured by their managers. They are very much aware of what it takes to make the grade within their organization. For this reason, it is imperative that personnel measurements take into consideration the courteous and fair treatment of taxpayers and that personnel are rewarded for emphasizing the collection of the proper amount of taxes. Although individuals are not graded on actual amounts assessed, larger organizational groups within the IRS are graded by recommended dollars assessed, as well as interest and penalties. The Commission did not find performance measures to indicate whether taxpayers are treated with the utmost respect.

Quality Service Measures

The IRS mission is "to collect the proper amount of taxes." As explained in Revenue Procedure 64-22, the IRS has a duty to apply the laws enacted by Congress in a fair and impartial manner, with neither a government nor a taxpayer point of view, and issues should be raised by examiners only when meritorious. The Commission found that some practitioners and IRS employees do not believe that employees actually are measured in a manner that promotes these standards.

rec (40)

To ensure that taxpayers receive quality service, performance measures for all IRS employees should be developed that incorporate the requirements of Revenue Procedure 64-22. Thus, employees should be evaluated on the basis of criteria that measure whether they apply the law in a fair and impartial manner, whether they seek to ascertain and apply the correct meaning of the law in light of congressional purpose, whether they raise only meritorious issues, whether they take positions that are consistent with established IRS positions, whether they administer the law without delay in a courteous manner, and whether they act vigorously to educate taxpayers and ensure compliance with the law.

rec (41)

The IRS should include as a measure for senior management the sustension rate of adjustments that are reviewed by the IRS Appeals function. While Appeals is able to consider additional factors when it reviews cases, including the hazards of litigation, low sustension rates nonetheless can be indicative of below par performance. For example, currently IRS Appeals sustains approximately 30 cents on the dollar for adjustments involving large corporations. This low rate reflects not only poor allocation of IRS resources but also represents a major burden to the taxpayer. A similar concern exists with the low sustension rates for cases settled or cases decided by the Tax Court. The taxpayer must spend significant sums to fight the IRS on cases of limited merit. Senior management must take steps to ensure that employees receive proper training, supervision, and support, so that these sustension rates can be improved. Also, the Appeals staff should provide feedback on areas that are subject to settlement so that examiners would be aware of which legal positions are not being sustained.

Quality Reviews

rec (42)

The Commission has heard from many former and current IRS employees that increasing the number of reviews of examination by quality review staff and institutionalizing the importance of quality for all examination employees would be a good step in ensuring that these performance measures are met. In addition, the Commission believes that IRS managers must be held responsible for the training and evaluation of new examination and collection employees during their probationary period in order to determine their fitness for permanent duty.

Taxpayer Service Surveys

rec (43)

To measure taxpayer satisfaction and ensure taxpayers receive fair and courteous treatment, the Commissioner, in consultation with the Taxpayer Advocate, should conduct continual surveys of taxpayers who have interactions with the IRS. The findings of these surveys, gathered at the group or unit level, should be used for the purpose of continuously improving the work done by IRS employees with the public.

Several state tax administrations conduct surveys of taxpayers that have proved beneficial for management. In addition, the private sector has found such surveys useful in identifying and rewarding exceptional employees. Surveys should be conducted for all IRS locations that deal directly with taxpayers, and posts of duty with substantial staffing.

At a minimum, surveys should be constructed to allow for review of management performance. In addition, surveys should provide sufficient data for management to measure aggregate employee performance, as well as taxpayer satisfaction with services provided by the IRS. The Taxpayer Advocate should publish the results of these surveys in the annual report to the Board of Directors by district and regional offices.

4. Accountability to Taxpayers

The independence of the IRS from political pressures and accountability to taxpayers are integral to maintaining confidence in our voluntary compliance system.

Criteria for examination selection

rec 1

In recent years concerns have been raised that certain taxpayers have been selected for examination for political purposes. At the same time, the paucity of information available to the public as to the criteria and procedures for selecting taxpayers for examination leaves room for taxpayers to speculate, particularly when certain examinations are brought to light through the media. For example, IRS Publication 556 merely explains that several computer methods are used to select returns, but does not indicate whether returns are selected for examination on the basis of information available in the media or on the basis of information provided to the IRS by informants. To provide taxpayers with a better understanding of the independence of the IRS from improper influence, the Commission urges the IRS to better educate the public about its procedures to the greatest extent possible within the bounds imposed by genuine law enforcement concerns. Further, the Congress should consider changes to the law based on the findings of ongoing review by the Joint Committee on Taxation of audits of nonprofit organizations. change

Records archived

rec 45

Because taxpayers and the IRS can learn from the past, the IRS must develop a centralized record keeping system to maintain and preserve the integrity of internal records. All federal agencies are required to deposit significant and historical records with the National Archives and Records Administration (NARA). Because section 6103 of the Internal Revenue Code prohibits the disclosure of tax return information, the IRS cannot allow NARA personnel to review its internal records for archival purposes. The inability to resolve this problem is detrimental to developing an accurate history of the IRS through which taxpayers can hold the agency accountable for its actions. Moreover, to the extent that IRS decision makers do not have ready access to prior reports and studies, they are not able to make fully informed decisions. Congress should provide NARA access to IRS records for archival purposes, and to assist the IRS in establishing and maintaining a centralized record keeping system. change

Access to tax return information

(46) The Commission heard concerns regarding the scope and use of the provisions regarding taxpayer confidentiality. In light of the complexity of the issue and the need to balance a host of conflicting interests, including taxpayer privacy, the need for third parties to use tax return information, and the ability to achieve greater levels of voluntary compliance by allowing the public to know who does not file tax returns, Congress should study these rules.

Freedom of information

Congress enacted the Freedom of Information Act to encourage openness in government and to provide a tool for the media to have access to information to do its investigatory job, and established specific deadlines for agency action on information requests. For requests to the IRS, the average FOIA request takes six months to process and appeals can take nearly a year, which is far in excess of the 10 business day statutory period for requests and 20 business days for appeals.

rec (47) Because the media is able to perform an oversight function through its work, and disseminate the information to a larger audience, the Commission recommends that requests by the media be given priority for processing and appeals purposes. This priority should mirror the process established by the Department of Justice, which provides expedited processing for certain FOIA requests that promote public accountability, particularly when the information sought involves possible questions about the government's integrity which affect public confidence.

5. Other Taxpayers' Rights Proposals

Restoration of public confidence in the IRS must begin with Congress through legislation promoting fair and impartial tax administration which focuses on preventing problems before they occur.

rec (48) The Commission's task force on Taxpayer Rights developed a number of additional proposals for action by Congress which we have included in Appendix I.

Section 6—Tax Law Simplification

The Commission found a clear connection between the complexity of the Internal Revenue Code and the difficulty of tax law administration and taxpayer frustration. Compounding the problem of administration is the frequency with which Congress and the President change the tax law. Throughout the course of our review, the Commission found that the laws written by Congress and the President can lead to inadvertent noncompliance, increase the compliance costs of individuals and businesses, and add to the difficulty of revenue collection. While the Commission recognizes that much of the tax law's complexity is a product of congressional and executive attempts to tailor the law narrowly while maintaining progressivity and revenue neutrality, the fact remains that the law is overly complex and that this complexity is a large source of taxpayer frustration with the IRS.

Recognizing that Congress and the President must weigh the policy merits of any tax proposal, as well as the effects on progressivity and revenue, the Commission strongly recommends that Congress and the President work towards simplifying the tax law wherever possible.

Introduction

The success of our nation's tax administration system depends on continued voluntary compliance with the tax law. The Commission found that significant noncompliance—both inadvertent and intentional—results from various obstacles within the current system, including the cost of compliance and the complexity of the tax law. Reducing taxpayer burden by simplifying the tax laws and administration must start with the Congress and the President.

The largest cost of complying with the tax law is borne by the taxpayer. Perhaps one measure for the success of tax legislation would be to measure the cost to comply with and administer the law. While economists differ as to the actual cost of compliance, published estimates range from $70 to $226 billion annually. These estimates are staggering, particularly when compared to the size of the IRS annual appropriation of approximately $7.5 billion. For Congress to develop an adequate understanding of the compliance and administrative burden of the tax law, it must consider the impact of tax law changes on behavior, research and planning costs, and the costs of audits, appeals, and tax litigation.

Uncertainty also adds to complexity and the cost of compliance. Many compliance problems are a direct result of uncertain interpretation of the tax law. Tax regulations and other guidance, including the Internal Revenue Manual, assist both the IRS and taxpayers, but they must be interpreted consistently. Unlike other government regulations, tax regulations and guidance help taxpayers and practitioners understand how to comply with the law. Congress should not discourage Treasury and the IRS from writing regulations, particularly those that set forth broad principles, as they often lessen taxpayer burden, simplify the law, and promote confidence in the tax system and consistency in tax administration. In addition, because unpublished guidance can be equated to a secret code, Treasury and the IRS should share more information with the public through education about how the laws are administered.

1. Legislative Process

Congress should consider the administrability of proposed tax legislation, and should take immediate steps to improve the tax legislative process, including requiring a Tax Complexity Analysis for each tax proposal.

There currently is no mechanism in place to ensure that Members of Congress have a complete understanding of how proposed tax legislation will affect the IRS and taxpayers, and to create incentives to simplify the tax law. Furthermore, there is no mechanism in place to emphasize the importance of simplification in the legislative process.

To ensure that Congress understands the burden imposed on taxpayers and whether the IRS will be able to administer legislative proposals, and whether the proposals contribute to simplification or add complexity to the Internal Revenue Code, Congress should require any legislative proposal to be accompanied by a "Tax Complexity Analysis" before it can be considered in committee or on the floor of either the House of Representatives or the Senate. This requirement will increase the prominence of tax complexity early in the drafting process, when its consideration is more likely to affect the substance of legislation. In addition, this requirement increases accountability of drafters by making tax complexity more transparent to Members of Congress, interest groups, and taxpayers. This requirement should be enacted as an amendment to the Budget Act, with point of order enforcement mechanisms, and should apply to any tax bill, amendment, or conference report.

Tax Complexity Analyses should identify the kinds of complexity, the extent of that complexity, and whether the provision could be recast to reduce complexity while still achieving its tax policy goals. To ensure uniformity, Congress should require the Analysis to consider the following eight issues:

- Whether the provision is new, or modifies or replaces existing law, and whether hearings were held to discuss the proposal and whether the IRS provided input as to its administrability;
- When the provision becomes effective, and corresponding compliance requirements on taxpayers (e.g., effective on date of enactment, phased in, or retroactive);
- Whether new IRS forms or worksheets are needed, whether existing forms or worksheets must be modified, and whether the effective date allows sufficient time for the IRS to prepare such forms and educate taxpayers;
- Necessity of additional interpretive guidance (e.g., regulations, rulings, and notices);
- The extent to which the proposal relies on concepts contained in existing law, including definitions;
- Effect on existing record keeping requirements and the activities of taxpayers, complexity of calculations and likely behavioral responses, and standard business practices and record keeping requirements;
- Number, type, and sophistication of affected taxpayers; and

- Whether the proposal requires the IRS to assume responsibilities not directly related to raising revenue which could be handled through another federal agency.

2. Role of the IRS in the legislative process

Congress must ensure that the IRS is the voice of tax administration and that it is directly included in the legislative process.

The tax legislative process is driven by revenue neutrality and progressivity estimates, but rarely takes into account the IRS ability to administer the tax law and taxpayers' ability to comply with the tax law. Members of Congress generally are not informed as to the complexity of most legislative proposals. Because of political pressures against tax increases, Congress and the President often raise taxes by enacting cumbersome and impossibly complex rules, making it difficult for taxpayers to understand whose taxes are being raised, and by how much. Moreover, the constant incremental changes to the tax law have a significant negative effect on taxpayers' understanding of the law and the IRS ability to perform its mission effectively. Each tax law change, no matter how small, requires the IRS to reprogram its computers, retrain its personnel, and update tax forms, publications, and guidance. Taxpayer frustration, uncertainty, and cynicism increase as they are required to change their business practices and activities and reeducate themselves each year when they prepare their tax returns. These problems are exacerbated when Congress enacts changes without adequate time for public comments or comprehensive consideration of the legislation's practical implications and effect on taxpayers and IRS administration.

Although the IRS is involved in the legislative process at times, it does not have an independent seat at the drafting table and its most knowledgeable technical experts are rarely brought into the process. Treasury closely monitors and reviews interactions and communications between the IRS and Congress. While the Commission recognizes the importance of having one voice for the Executive Branch on tax policy, the Commission recommends that Congress hear an uncensored view of the administrability of all tax legislative proposals from the IRS.

To ensure that Congress understands how legislative proposals will affect taxpayers and the IRS, and to ensure that the Joint Committee on Taxation has adequate information to prepare a thorough Tax Complexity Analysis for each tax legislative proposal, Congress should require the participation of the IRS in the legislative process. For example, when the tax writing committees hold hearings to discuss specific tax legislative proposals, the IRS should be required to testify as to the administrability of each such proposal and to explain how each proposal will affect both taxpayers and the IRS.

3. Simplifying Tax Administration

Congress should simplify tax administration by limiting the assignment of non-core functions to the IRS, taking steps to improve cooperation between federal and state taxing authorities, and simplifying tax forms and publications.

Non-core functions

The purpose of the Internal Revenue Code is to raise revenue to fund the federal government for the benefit of the American taxpayers. Tax administration is complicated when Congress asks the IRS to perform functions that are not core to its mission of collecting the proper amount of tax at the least cost and burden to taxpayers. Congress often asks the IRS to use its substantial data capture and compliance capabilities for purposes not directly related to tax collection. While these diversions of IRS resources may increase overall government efficiency, they are not without cost to the IRS and the tax system. For example, when refund offset programs are used to collect child support or student loan payments, or when credits are added to the Internal Revenue Code to target a specific population already served by other federal agencies, Congress adds significant compliance and administrative burdens and runs the risk of undermining the IRS core capabilities and its nonpolitical nature. Similarly, when Congress asks the IRS to dedicate a greater share of its resources to help combat the war on drugs and money laundering, the result is fewer IRS resources to work traditional tax enforcement cases. The addition of non-core functions also further exacerbates the IRS governance and management problems, diverting the organization from establishing a strategic direction with clear priorities. With improved financial management information, the IRS should provide Congress with more accurate information as to the direct and indirect costs of requiring the IRS to assume non-core functions.

When the IRS may be uniquely qualified to administer a non tax collection function and Congress adds such a responsibility, Congress also should provide sufficient autonomy and resources. For example, in the Employee Retirement Income Security Act of 1974, Congress asked the IRS to regulate employee plans and exempt organizations. The EP/EO operation is recognized as one of the most innovative and efficient functions within the IRS. In recent years, EP/EO has developed a variety of programs to encourage voluntary compliance, including the voluntary compliance resolution program, the walk-in closing agreement program, and the administrative policy regarding self-correction. When created, the director of EP/EO was to report directly to the Commissioner with the authority to carry out the EP/EO functions as prescribed by the Secretary, and the operation was to have an independent source of funding. Recognizing that the IRS is organized to collect revenue, Congress enacted section 7802(b)(2) of the Internal Revenue Code to authorize an annual appropriation for EP/EO funding, measured by receipts of the excise tax on certain investment income. That funding mechanism has never been used, however, and EP/EO constantly struggles with the IRS core tax collection functions for resources to regulate more than $1.2 trillion in tax exempt assets and $1.7 trillion in retirement plan assets. To ensure that this non-core function of the IRS is able to continue its innovative and efficient approaches to regulating employee plans and exempt organizations, Congress should restore authority and utilize the specific appropriation mechanism.

Federal-State cooperation

Some of the complexity of tax administration could be ameliorated through greater federal and state government cooperation. Cooperative agreements between the IRS and state taxing authorities could improve the efficiency of tax administration at all levels by better utilizing resources and could reduce burden on taxpayers. For example, cooperative agreements for joint filing of federal and state returns and single processing of those returns, as well as joint

examination and collection efforts and reciprocity of state refund offset programs, could simplify tax administration significantly.

One promising joint federal and state effort, the Simplified Tax and Wage Reporting System (STAWRS), was initiated to reduce burden on the nation's 6.2 million employers while improving the efficiency and effectiveness of federal state operations. Because a business operating nationally must comply with as many as 189 different taxing jurisdictions, the STAWRS concept would provide significant simplification. However, the multi-agency approach for developing STAWRS has not facilitated progress. Meanwhile, several states have proceeded with their own initiatives. Congress and the IRS should proceed with the implementation of STAWRS in an effort to reduce taxpayer and tax administration burdens by harmonizing the wage code and providing a single point of filing for tax and wage reporting.

Tax forms and publications

While Congress often laments the complexity of tax forms and instructions, this complexity is a product of the laws written by Congress. The IRS coordinates the development of tax forms and instructions with its compliance, taxpayer services, communications, and legal advisors, as well as tax practitioner groups, to ensure that tax forms and instructions are streamlined and straightforward. Given the complexity of the law, most IRS forms and instructions are as clear and concise as could be expected.

Although the Paperwork Reduction Act has been a positive influence on the IRS by elevating the importance of burden reduction, the current presentation of taxpayer burden estimates on tax forms, instructions, and publications is meaningless and misleading to taxpayers. The actual time requirements depend on variables such as tax knowledge and experience of the taxpayer, and the complexity of the taxpayer's transactions. Ironically, the Paperwork Reduction Act can cause increased burden on taxpayers due to the manner in which paperwork burden is assessed. For example, each line on a tax form is viewed as increasing burden even though additional lines, such as a line to authorize a power of attorney, are of assistance to taxpayers. To ensure that taxpayer burden information is presented in a meaningful manner, Congress should require the IRS to publish a comprehensive estimate of taxpayer burden for the total population as part of its Statistics of Income reports, eliminating the requirements of publishing burden information on each tax form and document.

4. Other Simplification Proposals

<u>Congress should take steps to ease the burden of tax administration on the IRS and reduce taxpayer frustration.</u>

Over the past few years there have been increasing calls for tax reform. The impetus for this movement lies, in large part, with taxpayer frustration with the complexity of the Internal Revenue Code. The Commission's mandate did not include the ability to evaluate the merits of the various proposals for fundamental structural tax reform. However, throughout the course of our work during the past year, the Commission heard from IRS employees at all levels,

taxpayers, practitioners, and other stakeholders that the complexity of the law is a major problem. We also heard that Congress needs to be cautious as it goes through this process.

As Congress and the President simplify the tax law, they should focus on features of present law that contribute to unnecessary complexity and impose unneeded burdens on the IRS and the American people. Appendix H highlights examples of issues that Congress and the President might consider in this regard, and provides a compendium of simplification proposals that the Commission received from various stakeholder groups and academics. The Commission forwards these specific proposals to the tax writing committees of Congress, without endorsement, and urges that they be considered.

In addition, ~~the~~ to assure ongoing focus on the need to simplify the tax law, and to provide Congress and the President, as well as taxpayers, with the tools to pursue simplification, the Commission recommends that Congress explore the following ideas.

Quadrennial simplification process
Congress should explore developing a framework, similar to that established by the Congressional Budget and Impoundment Control Act of 1974, within which Congress and the President would consider tax simplification legislation through a regular process that is methodical, thoughtful, and that includes sufficient time for public debate, deliberations, and input from taxpayers and the IRS. The simplification process would require amendments to be revenue neutral, would prohibit inclusion of nongermane provisions, and would be subject to limited rules of debate. To ensure that this process includes taxpayers, Congress might consider establishing a commission of individuals that would develop recommendations that would be included in this debate.

To assist the commission leading the quadrennial review of the tax law, the Joint Committee on Taxation should undertake a review of the Internal Revenue Code using the Tax Complexity Analysis described above. Working with Treasury, the IRS, and taxpayers, the Joint Committee should review the tax law for provisions that may have outlived their original purpose or that have been superseded by other legislation.

Compliance burden estimates
Congress should explore the feasibility of developing a "baseline" estimate of taxpayers' compliance burdens. If these estimates can be developed, they would allow Congress to have a better sense of the impact of legislative proposals on taxpayers and on IRS resources. Future legislative proposals could be measured against such an analysis of these costs.

Establish one broad based tax system
Two of the most sweeping tax reform acts in history, those of 1969 and 1986, were not successful in their attempts to establish a truly broad based tax system. The result was the establishment and expansion of the Alternative Minimum Tax (AMT). The AMT, which is imposed in addition to the regular income tax, is intended to ensure that no individual or business taxpayer with substantial economic income can avoid significant tax liability by using exclusions, deductions, and credits. While the drafters of these rules were well intentioned, in

reality the AMT affects many taxpayers who do not have substantial economic income, particularly because the AMT disallows many basic support preferences. For example, recent estimates by the Joint Committee on Taxation project that the number of individuals subject to the AMT will increase ten-fold from 1997 to 2006; this number will increase if recent proposals for child credits, education credits, and capital gain relief are disallowed for purposes of calculating the AMT. Moreover, the approach of the AMT, which layers a tax system within the existing tax system, is unnecessarily complex to achieve the goal of maintaining progressivity in the Internal Revenue Code. It imposes a tremendous burden on taxpayers and the IRS because it requires two separate calculations of tax liability, one for the regular income tax and one for the AMT. If the tax base was designed to be truly fair and comprehensive, there would be no need for a minimum tax. Because of the way Congress "scores" or calculates the impact of a change in the tax laws, eliminating the AMT would be costly in terms of revenue. To pay for its elimination, the Congress could consider other methods that would further the goals of progressivity that underlie the AMT—making the tax base fair and comprehensive. If the Code is simplified so that taxpayers can understand it and so that it is truly fair and comprehensive, the necessity for any kind of AMT would be eliminated.

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b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

1997-SE-009617

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

September 5, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Robert E. Rubin RER

SUBJECT: IRS Restructuring

This is a request, supported by John Hilley, that you express an intention to veto legislation which will place the IRS under the control of a part-time private sector board. This legislation is moving through the House Ways & Means Committee this month and is sponsored by Senators Kerrey and Grassley and Representatives Portman and Cardin. The House leadership has made clear its intention to act on this legislation this year. Although the idea of a private sector board has superficial appeal, I believe this proposal will cause great harm to our system of tax administration.

Several independent analyses have echoed our concerns about the danger of this proposal. A recent Brookings Institution report said that their proposal is "fundamentally flawed. . . It confuses the undeniable need to strengthen the IRS's leadership with a plan to turn the agency over to a board dominated by private officials." The New York State Bar Association said that the proposed board would diminish the effectiveness of the IRS. Additionally, Gerald Seib of *The Wall Street Journal* called the proposed board one of the three worst ideas of 1997. The Justice Department has also expressed serious concerns about the proposed board's impact on the IRS' law enforcement efforts.

Announcing our intention to veto within the next week is important for several reasons. The Administration is building support for more sensible legislation of our own, which is scheduled to be introduced next week. We have broad-based sponsorship in the Democratic Caucus, and the Democratic leadership in both houses have already expressed their support. A strong signal from you would reinforce efforts to unite Democrats on this issue. The Senate Finance Committee will be holding highly publicized hearings on IRS taxpayer abuses during the week of the 22nd. And the House Ways & Means Committee, the first committee to take up this legislation, will hold a hearing next week on the private sector board proposal. I will be testifying at this hearing.

Our Specific Objections to Kerrey-Portman

Our objections are as follows:

- First, although the members of the proposed board would be appointed and could be dismissed by the President, they would report to no one, undermining public accountability. Our plan maintains the direct line of accountability from the IRS Commissioner to the Secretary of the Treasury, through the President to the American people.

- Second, the Kerrey-Portman bill gives the private sector control over a major law enforcement agency. Placing such power in the hands of the private sector would be unprecedented and raises serious concerns.

- Third, the private citizens in charge of the IRS will face both enormous real and apparent conflicts of interest in determining how to allocate budgetary resources, set priorities, evaluate personnel, and exercise general oversight. For example, people with responsibility for corporate audit policy will report to a board of private-sector officials and may face a "chilling effect" in the exercise of their responsibilities. The appearance of conflict has great potential to further damage the public's confidence in even-handed tax administration, which in turn could undermine our system of voluntary compliance.

- Fourth, intermittent attention from a board that meets only every month or two would not provide the proactive, energetic oversight necessary to manage the IRS. In contrast, the Administration proposal strengthens oversight by ensuring that senior government officials are available on a full-time basis for attention to IRS management issues.

- Fifth, creation of the board would vastly increase the likelihood of litigation. Disgruntled taxpayers would challenge the agency's decisions by questioning the new board's authority.

- Sixth, this proposal would place some tax policy decisions, made through IRS rulings and regulations as well as judgements on the administration of tax law, in the hands of people who report to a private sector board.

- Seventh, we have begun to make real progress in improving the IRS -- progress which a new, untested governance structure would put at risk. We have made a sharp turn in systems modernization, made important strides in improving customer service, nominated a new Commissioner with a strong private sector background in information technology management, and we have announced a new management board of senior government officials and our intent to establish a new advisory board of private-sector experts.

Broader Implications

Clearly, problems remain at the IRS. We agree that there is a need for change and we are taking aggressive steps to improve the IRS. Our legislation will institutionalize this change and provide a framework for effective management of the IRS now and in years to come.

But the Kerrey-Portman proposal -- and the surrounding debate -- not only threatens the agency that collects 95% of our government's revenue, but also has broader implications for the future of our progressive tax system. Though some supporters of this proposal are no doubt sincere in their efforts to improve the IRS, many others are using the IRS to advance the conservative Republican agenda. They intend both to replace our progressive tax system with a flat tax and to undermine the legitimacy of government. I believe we must move rapidly to halt these efforts.

TREASURY CLEARANCE SHEET

NO. _____
Date _____

MEMORANDUM FOR: ☒ SECRETARY ☐ DEPUTY SECRETARY ☐ EXECUTIVE SECR[redacted]
☐ ACTION ☐ BRIEFING ☐ INFORMATION ☐ [redacted]ION
☐ PRESS RELEASE ☐ PUBLICATION ☐ REGULATION ☐ S[redacted]
☐ TESTIMONY ☐ OTHER _____

FROM: Secretary Rubin to President Clinton
THROUGH: _____
SUBJECT: IRS

REVIEW OFFICES (Check when office clears)

- ☐ Under Secretary for Finance
  - ☐ Domestic Finance
  - ☐ Economic Policy
  - ☐ Fiscal
    - ☐ FMS
    - ☐ Public Debt
- ☐ Under Secretary for International Affairs
  - ☐ International Affairs
- ☐ Enforcement
  - ☐ ATF
  - ☐ Customs
  - ☐ FLETC
  - ☐ Secret Service
- ☐ General Counsel
- ☐ Inspector General
- ☐ IRS
- ☐ Legislative Affairs
- ☐ Management
- ☐ OCC
- ☐ Policy Management
  - ☐ Scheduling
- ☐ Public Affairs/Liaison
- ☐ Tax Policy
- ☐ Treasurer
  - ☐ E & P
  - ☐ Mint
  - ☐ Savings Bonds
- ☐ Other _____

NAME (Please Type)	INITIAL	DATE	OFFICE	TEL. NO.
INITIATOR(S)				
Ben Jones				
REVIEWERS				
Schloss	✓		Please log and file	
Krupsky/Lubik				
Fromam			NCC to WH 9/5/97	
Knight	OK PWL	9/5/97		
Boorstin			(Erskine Bowles Todd Stern)	
Bean/Robertson				

SPECIAL INSTRUCTIONS

Please return to Neal Comstock any comments and clearance.

☐ Review Officer _____ Date _____

☒ Executive Secretary _____ Date _____

DO F 80-02.1 (04/89)

TREASURY CLEARANCE SHEET

NO. _____
Date _____

MEMORANDUM FOR: ☒ SECRETARY ☐ DEPUTY SECRETARY ☐ EXECUTIVE SECRETARY
☐ ACTION ☐ BRIEFING ☐ INFORMATION ☐ LEGISLATION
☐ PRESS RELEASE ☐ PUBLICATION ☐ REGULATION ☐ SPEECH
☐ TESTIMONY ☐ OTHER _____

FROM: Secretary Rubin to President Clinton
THROUGH: _____
SUBJECT: IRS

REVIEW OFFICES (Check when office clears)

- ☐ Under Secretary for Finance
  - ☐ Domestic Finance
  - ☐ Economic Policy
  - ☐ Fiscal
    - ☐ FMS
    - ☐ Public Debt
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INITIATOR(S)				
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Boorstin				
Bean/Robertson				

SPECIAL INSTRUCTIONS

Please return to Neal Comstock any comments and clearance.

☐ Review Officer — Date

☒ Executive Secretary — Date

DO F 80-02.1 (04/89)

1997-SE-010656

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

October 3, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Robert E. Rubin RER

SUBJECT: Your Questions Concerning the Internal Revenue Service

I understand you had two questions regarding the IRS:

1) Does the IRS target low-income individuals for audit?

Individuals with the highest incomes are most likely to be audited, as shown by the chart below. Audit rates have, however, dramatically increased for lower-income taxpayers and dramatically declined for higher-income taxpayers over the last five years -- a trend that has three primary causes:

- *Attempts to reduce the error rate in the Earned Income Tax Credit (EITC) program.* In response to Congressional and Administration concerns, the IRS attempted to reduce the number of erroneous EITC and dependent exemption claims during 1995 and 1996. These steps resulted in more audits of low-income taxpayers and helped reduce the EITC overclaim rate from 35.4 percent in 1988 to 23.5 percent in 1994.

- *Elimination of tax shelters.* The Tax Reform Act of 1986 eliminated a number of tax shelters, thus reducing the need for the IRS to continue its aggressive audits of high-income taxpayers.

- *Reallocation of audit resources.* In part due to budget reductions since 1995, the IRS has shifted some resources to enforcement efforts with higher rates of return. Simple audits tend to have the highest rates of return, and these audits disproportionately affect taxpayers in lower-income classes.

We are further exploring these trends with the IRS.

IRS Audit Coverage (in Percent) of Individual Income Tax Returns

Income	FY92	FY96
Less than $25,000	0.82	1.82
$25,000 - $50,000	0.70	0.95
$50,000 - $100,000	1.10	1.16
$100,000 or more	5.28	2.85

2) How many of the abuses revealed before the Senate Finance Committee occurred after the passage of the Taxpayer Bill of Rights (TBOR)? Was TBOR violated?

TBOR, which was first passed in 1988:

- authorizes the Taxpayer Assistance Program to halt collection activity for taxpayers suffering hardship;
- gives taxpayers the right to recover damages for wrongful collection or when the IRS wrongfully fails to release liens; and
- bans using the amount of revenue collected by employees in their evaluations.

Taxpayer rights were strengthened in 1996 and 1997 through TBOR2 and the recent Taxpayer Relief Act. These steps gave, for example, the Taxpayer Advocate's office the authority to intervene on behalf of taxpayers.

The Finance Committee looked at four different taxpayer cases. Based upon the record of the hearings, the IRS did not violate any provision of either TBOR, TBOR2, or the Taxpayer Relief Act, though the IRS admitted that all four were mishandled. The Acting Commissioner of the IRS is in the midst of a thorough review of each case.

- Two taxpayers said they sought help from the Taxpayer Advocate's office and, in one case, that the office helped resolve the taxpayer's problem.
- The special rights TBOR gives taxpayers (e.g., the discontinuation of collection during hardship) did not play a role in the resolution of any of the cases.

In addition, IRS employees alleged in testimony that TBOR was violated because revenue measures were used to evaluate employees. Violations of this part of TBOR were also alleged by *Newsweek* on the basis of an internal memo from the Arkansas-Oklahoma collections office. The Acting Commissioner is examining these allegations and is meanwhile suspending the use of performance measures for any purpose.

-Prepared by
Ben Jones

- NCC (Alan K)
original to
WH 10/3

- Please log
and file

010656

THE PRESIDENT HAS SEEN
10-7-97

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

October 3, 1997

'97 OCT 3 PM5:23

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THE WHITE HOUSE

WASHINGTON

THE PRESIDENT HAS SEEN 10-7-97

October 4, 1997

copied Sperling COS (w/cover memo)

MEMORANDUM FOR THE PRESIDENT:

FROM: PHIL CAPLAN
SEAN MALONEY

Send to Rubin

SUBJECT: Recent Information Items

We are forwarding the following recent information items:

(A) **Reed/Kagan/Cohen update on national tests.** Memo updates you on status of the conference and other Congressional issues as well as communications and outreach efforts. *Please see memo for details.*

(B) **Rubin memo on IRS.** In response to two questions you had. *1) Does the IRS target low-income individuals for audit?* Individuals with the highest incomes are most likely to be audited (see chart in memo), but audit rates for low-income taxpayers have dramatically increased while audit rates for high-income have dramatically decreased over the last five years. Three causes: (i) IRS has attempted to reduce the error rate for EITC taxpayers in response to Congressional and Administration concerns; (ii) elimination of tax shelters for high-income taxpayers had reduced the need for aggressive audits; (iii) due to budget reductions, IRS has shifted resources to enforcement efforts with higher rates of return. *2) Was the Taxpayer Bill of Rights (TBOR) violated?* The hearings looked at four different taxpayer cases. Based upon the record of the hearings, IRS did not violate either the TBOR (first passed in 1988) or the '96 and '97 strengthening of the law, though the IRS admitted all four were mishandled. The Acting Commissioner is looking into each case.

Confusion wrong

"If that means low income - not good."

(C) **Berger update on NATO Enlargement ratification.** Updates you on various efforts: a group called the New Atlantic Initiative released a pro-enlargement statement signed by over 130 prominent foreign policy figures, including all 8 living Secretaries of State and 14 other top national security officials; your letter-response to a group of 20 senators has been widely distributed to the press, think tanks and constituency groups; Congressional consultations are on-going; Senate hearings are imminent, with Albright testifying on Oct. 7; Senator Dole appears receptive to playing a positive role and may want to travel to three invited states; Sandy is working to expand the circle of supportive organizations.

(D) **Carl Sagan's views on launch of nuclear material into space.** From Jack Gibbons who forwards 1989 Sagan article in light of interest Cassini launch is generating. Sagan discusses safety issues associated with plutonium-powered launches. Jack notes, "I believe Sagan's views help put the benefits and potential risks into perspective."

1997-SE-010917

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

ASSISTANT SECRETARY

October 6, 1997

MEMORANDUM FOR SECRETARY RUBIN

FROM: Linda L. Robertson LR
Assistant Secretary
(Legislative Affairs and Public Liaison)

SUBJECT: Meeting with Senator Roth on IRS

DATE & TIME: October 7, 1997 2:30 pm

LOCATION: 104 Hart Senate Office Building

BACKGROUND: You are meeting with Chairman Roth to discuss IRS reform as well as Fast Track and your recent trip to China.

IRS

We understand that Senator Roth will take this opportunity to present you with proposals to follow up on his IRS hearings, but have not learned the specifics of these proposals. You should indicate a willingness to work with him on issues that he raises, provided they do not involve alternate governance structures.

You should be aware that, prior to your meeting with Senator Roth, Acting Commissioner Dolan is scheduled to meet with Lindy Paull to discuss next steps for the IRS. In addition, a very tentative hearing date for Charles Rossotti has been set for October 22. However, you should not indicate to Chairman Roth that we are aware of this date. You should also know that there is one ethics issue with regard to this nomination that Ed Knight is discussing with the Committee.

You might want to indicate how important it is at this time to have Charles Rossotti confirmed, so that as we move ahead with IRS reforms, the IRS is under the secure stewardship of a new leader.

You should impress upon Chairman Roth your concern that the recent hearings are being taken out of perspective. The current public perception of the IRS, fueled by the media frenzy which the hearings precipitated, is that the "abuses" described at the hearings are endemic to the Service as a whole. You should point out to Chairman Roth that although he reiterated several times that he did not intend to politicize the IRS, the hearings have set off a dangerous chain reaction. The cover story of *Newsweek* (Oct. 13) is titled "Infernal Revenue Disservice," and carries the headline: "*Victimization of taxpayers isn't just the isolated deviltry of a few agents. The IRS itself has become a rogue organization, wielding its awesome power under a cloak of secrecy.*"

Clearly the rhetoric has escalated to an alarming level. You should encourage the Chairman to honor his previous statements and work to keep the issues in perspective and help reign in the dialogue. The IRS just completed a successful filing season with significant increases in the use of taxpayer-friendly initiatives like the toll-free access lines. Sweeping generalizations about the IRS are unfair to the majority of the 102,000 people who are courteous and dedicated IRS employees, not to mention simply untrue. To let the public believe otherwise is irresponsible.

You should indicate that we believe that in order to maintain a productive dialogue on IRS reform, we need to keep the process moving forward. To that end, the IRS has identified a series of "next steps" it will take to address some of the issues raised during the Senate Finance Committee hearings. In addition, the Administration has proposed several measures to increase customer service and extend taxpayer rights. You should use this opportunity to review some of these initiatives with Senator Roth, like IRS Problem Resolution Day and the Citizen Advisory Panel. Talking points on the IRS' next steps are attached.

The IRS will confront significant challenges as it moves into the next century. Over the next 18 months, the IRS will have to resolve its Year 2000 computer issues in the midst of a systems overhaul. In addition, it will have to integrate the newly-passed tax bill into these very same systems. Even under the status quo, the IRS would face three extremely high-risk filing seasons, let alone with radical structural changes.

During the hearings, Chairman Roth stated that, due to the unique powers granted the IRS, it should act responsibly, be held to a higher standard, and therefore be subject to continual Congressional oversight. He did acknowledge the many hard-working, dedicated IRS employees, but also indicated he believes the management culture is to blame for many of the "abuses" described at the hearings. He questioned certain enforcement tactics (seizures, liens, levies) and inquired about numerical performance measures, particularly the existence of quotas. He also suggested that the culture reinforces the pressure to perform that employees may feel from managers.

One theme that surfaced during the hearings was the notion that the inspection division needs more independence from the rest of the IRS. Drawing from his experience on the Senate Governmental Affairs Committee, Senator Roth suggested the creation of an independent Inspector General for the IRS, who would report directly to the Commissioner. The Senator also seemed suspect of the Taxpayer Advocate's true degree of independence. Overall, Chairman Roth questioned the IRS's commitment to addressing and correcting these problems.

While you should avoid a discussion of the specific details of the cases presented at the hearing, you may, in response, want to reiterate Treasury's commitment to the IRS and point out some of the initiatives the Administration is implementing to address these concerns.

Fast Track

While the focus of this meeting should be on the IRS, you might also want to raise Fast Track, should the opportunity present itself. On October 1, the Senate Finance Committee reported out the Chairman's draft Fast Track bill, with Senator Conrad, whose exchange rate amendment

was defeated, casting the lone dissenting vote. In contrast to the Administration bill, Senator Roth's proposal shifts the pursuit of enhanced labor and environmental standards from the negotiating objectives section to a new section entitled "International Economic Policy Objectives." Although this language empowers the Administration to pursue labor and environmental agreements, our interpretation is that these agreements would not be on the fast track through Congress, as they would be if the Administration bill were enacted.

You should express the Administration's eagerness to work with him on reaching a bipartisan consensus and on passing Fast Track legislation this year. Brief talking points on Fast Track and the Conrad exchange rate amendment are attached.

China Trip

Lastly, you may want to mention briefly your trip to China. The Chairman may be interested to hear your impressions of President Jiang, as well as your assessment of the financial situation in Southeast Asia.

Attachments:

- Talking points on IRS next steps
- Letter to Chairman Roth
- Talking points on Fast Track bill and Conrad Amendment

INFORMATION FROM THE INTERNAL REVENUE SERVICE

September 1997

NEXT STEPS FOR THE IRS AFTER THE SENATE FINANCE COMMITTEE HEARINGS

The following initiatives were announced by acting IRS Commissioner Michael Dolan at the September 25 hearing before the Senate Finance Committee.

- In the area of customer feedback, we have heard criticism that we are insular and don't listen. Over the past several years we have made Customer Service a much higher priority, but we acknowledge that we do not have sufficient customer feedback data to judge the best way to meet their needs. We are moving to a system that captures customer satisfaction feedback for all our compliance contacts, as well as our customer assistance areas. The process has already been introduced in our Appeals and Examination areas and will be expanded into Collection during FY 1998. Data collected from taxpayers will be used for both individual and organizational evaluations.

- In a concerted effort to ensure that current problem cases are being handled properly, each District and Service Center Director will be required to immediately review all complaint contacts coming to their office during the last quarter. They will be required to confirm, with their Taxpayer Advocate, that the cases have been resolved properly and that the taxpayer has no outstanding issues. They will also identify issues which are the subject of repeated problems.

- To reemphasize responsiveness to taxpayers' concerns, each District Director will hold a monthly "problem solving" forum in locations throughout the district for the exclusive purpose of inviting taxpayers to surface problem situations.

- All Directors will increase local publicity about the availability of services in the Taxpayer Advocate's office.

- All IRS executives and every senior manager in our Compliance functions will convene in Washington within the next thirty days to consider the results of Senate Finance Committee hearings and to review IRS expectations concerning responsiveness to taxpayers and protecting taxpayers' rights. They will also help identify IRS practices that may lead to unintended complications for a taxpayer.

(over)

- We will ask the National Treasury Employees Union (NTEU) to partner with us in designing a national meeting of representative front line employees who will help us identify ways in which to respond to the serious concerns raised during the hearings.

- We will continue to pursue improvements to the critical information systems which will give IRS employees immediate access to the account information they need to help taxpayers resolve problems quickly when they contact us.

- The IRS will continue to stress improved training for our workforce, focusing not only on continued improvements to technical training but on expansion of courses which concentrate on interactive skills. We will look for the cooperation of the NTEU to help us establish a more comprehensive set of technical competency guidelines and criteria which address promotions and maintenance of critical skills.

Much has been said about IRS employees working to quotas. This is absolutely prohibited. In fact, Congress and the GAO have encouraged the IRS to use revenue targets so it could measure its efficiency and effectiveness as the nation's tax collector. The Government Performance and Results Act (GPRA) requires a number of accountability measures on our performance as an agency. However, because we are so concerned that employees not perceive they are graded on revenue collections:

- We will no longer comparatively rank our 33 district offices on their results.

- We will suspend the distribution of any goals relating to revenue production to our field offices. While the goal will be established and tracked nationally to conform with GPRA requirements, there will be no expectation of a local office having a "share" of a national goal. We will continue to distribute local expectations relating to national goals aimed at quality improvement and burden reduction for the taxpayer.

- We will no longer include penalty amounts in our statistical results on revenue collected. This will discourage any perception that the IRS encourages assessments of additional penalties as a revenue raising technique.

- The IRS has a long-standing policy that enforcement results will not be used to evaluate individual employees. Current practice to assure adherence to that policy is to have each district director certify, on a quarterly basis, that statistical results have not been used in this manner. We intend to ask the Government Accounting Office (GAO) to conduct a review of the validity of our certification program.

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

:CRETARY OF THE TREASURY

September 22, 1997

The Honorable William Roth
Chairman, Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Bill:

I wanted to take this opportunity to comment on the Finance Committee hearings this week concerning taxpayer rights and allegations of abuse by employees of the Internal Revenue Service.

I have asked Acting IRS Commissioner Mike Dolan to report to me on the steps that the IRS plans to take in light of the cases presented to the committee. I have also requested information on the extent to which these cases warrant disciplinary actions and how we are using these cases as a teaching and prevention tool for the future.

There is no doubt that in any large organization with significant powers there will be a number of instances each year where individuals behave improperly. Let me be clear: we do not condone such actions and I have no tolerance for such. I deeply regret any mistreatment of taxpayers. We find any instance of abusive behavior deeply troubling, and the Treasury Department and the IRS are working to prevent them in every way possible.

At the same time, I am proud to stand behind the overwhelming majority of agents and supervisors who treat taxpayers with respect and understanding. We can and must do everything possible to prevent abuses, but always in the context of continued support for the people who collect our taxes and for the mission of the organization as a whole. We believe in a fair tax system -- and compliance and enforcement are both critical sides of that fairness.

Any hearings on the IRS and its collection practices that do not take into account the tens of millions of taxpayers who are fairly and courteously treated by the IRS will ultimately prove detrimental to customer service and revenue collection. We are working hard to reform the IRS, and it would be counterproductive at best, and very harmful at worst, if these hearings undermined morale and damaged our efforts.

I also believe it is important that any review keep in mind the scale of IRS transactions. While even one abuse of taxpayers is too many, in 1996 the IRS processed 209 million

returns and collected $1.5 trillion. Although the great preponderance of taxes owed are paid voluntarily, enforcement is a critical part of the job of the IRS. First, additional moneys owed but not voluntarily paid are collected through enforcement. Second, responsible and appropriate enforcement action results in a smaller financial burden on taxpayers who pay voluntarily.

Treasury and IRS management are well aware of the need to instill in our employees a sense of responsibility and care with regard to taxpayer rights. We have taken many steps including:

- A commitment to the 1988 Taxpayer Bill of Rights (TBOR) which makes it illegal to use records of tax enforcement results to evaluate employees or their supervisors or to impose or suggest production quotas for these employees. This statutory language made into law what had been and continues to be a long standing policy at the IRS not to use statistics to evaluate enforcement personnel.

- Strict efforts to carry out the Taxpayer Assistance Order of TBOR which provides relief for taxpayers who might suffer an emotional or financial hardship as a result of planned enforcement action by the IRS. In 1996, the IRS handled approximately 3,000 requests for relief. More than 35 percent of these requests were initiated by IRS employees who recognized the potential hardship and took steps to stop the enforcement action.

- Training of IRS employees in Collection, Examination and Customer Service on the provision of both the first and second Taxpayer Bill of Rights as well as training in quality customer service.

- Evaluations of both revenue officers and agents on a variety of job standards that include customer relations. This standard requires that agents conduct themselves in a "courteous, firm and professional manner." In addition, this standard requires agents to ensure that they fully explain to taxpayers their rights under the law.

- A joint Treasury, IRS, National Performance Review (NPR) task force is conducting a 90-day study of customer service. The study draws on the experience of front-line employees and focuses on the issues that touch customers most deeply. Among other tasks, it will identify ways to improve notices sent to taxpayers, the quality of walk-in center assistance, and training.

Finally, in my view, we must respect and support the committed men and women of the IRS who, year in and year out, perform the difficult and unpopular job of collecting 95 percent of the revenues that fund vital government services. In recent years, we have seen widespread threats and incidents of violence against these public servants and bomb threats against IRS facilities. There have been over 3,200 reported threats and assaults on IRS employees during the last five years.

In the coming days, as you review the activities of the IRS, I believe, as I said earlier, that it is critically important that cases of taxpayer abuse be considered within the context of the scale of the agency's tasks. We are striving, as you know, to reform the IRS and to best serve the American taxpayer, but we must do this in the context of supporting the IRS's vital missions. There are very large numbers of men and women at the IRS who are successfully performing a difficult task day in and day out. We should not do anything to make their job more difficult or hinder ongoing efforts to reform the IRS.

Sincerely,

Robert E. Rubin

Fast Track and Exchange Rates

No one in the Senate Finance Committee supported Senator Conrad's (D-ND) proposed amendment to their Fast Track bill, which would require the Administration to provide assurances to Congress that the President can make a judgement regarding the stability of the currency in question, and that there is no probability of a "marked change" that would offset tariff concessions achieved in that trade agreement. The Administration would further have to determine if that exchange rate were in line with economic fundamentals.

Since this amendment was not adopted by the Committee, we never had the opportunity to register our opposition. However, we are concerned that it may resurface when the Fast Track bill goes to the Senate floor.

We suggest that you tell Senator Roth that:

- We can live with the currency movements language now in Senate bill, which is not a principal negotiating objective but rather an "international economic policy objective," which would not be subject to Fast Track procedures (we would prefer to make a few minor edits).

- However, any move towards the language proposed by Senator Conrad would be opposed by the Administration, given our inability to judge the stability of other countries' exchange rates or predict the likelihood of a "marked change."

- If necessary: We will continue to examine countries' behavior to determine if they are manipulating their exchange rates to gain unfair competitive advantage, as required by the 1988 Trade Act.

October 3, 1997

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*** ACTIVITY REPORT ***
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CONNECTION ID	SEC OF TREASURY
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Comstock
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DATE: 10-6-97

DEPARTMENT OF THE TREASURY
WATCH OFFICE
FAX COVERSHEET

--If received INCOMPLETE call (202)622-1825

TO: Secretary Rubin

Fax Number: —

Office Phone #: —

FROM: Linda Robertson / thru Neal Comstock

Fax Number: (202)622-1829 (UNSECURE) (202)622-1851 (SECURE)

Office Phone #:

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PAGE 1 OF 10 PAGES

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1275
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INFORMATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

ASSISTANT SECRETARY

October 3, 1997

MEMORANDUM FOR: SECRETARY RUBIN
DEPUTY SECRETARY SUMMERS

FROM: Jonathan Gruber JG
Deputy Assistant Secretary for Economic Policy

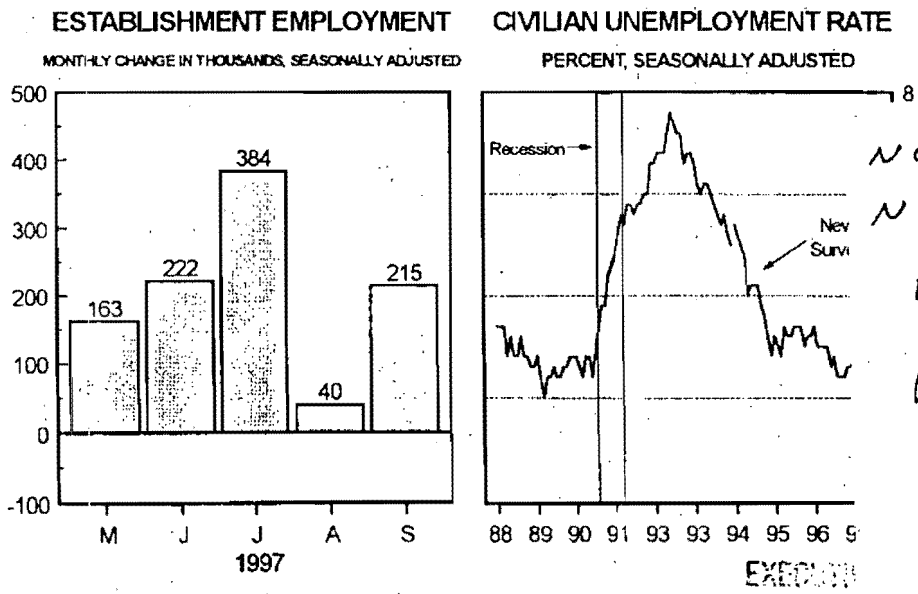
SUBJECT: Employment and Unemployment in September (**Figures embargoed until 8:30 a.m., Friday.** All monthly data are seasonally adjusted.)

PAYROLL EMPLOYMENT ROSE LESS THAN EXPECTED IN SEPTEMBER AND THE UNEMPLOYMENT RATE STAYED AT 4.9 PERCENT.

Payroll employment from the establishment survey rose by 215,000 in September, boosted by the return to work of UPS strikers. Market expectation had centered on a 335,000 increase, with a wide forecast range of 245,000 to 425,000. The unemployment rate remained at 4.9 percent in September. Markets had expected the rate to drop to 4.8 percent.

In September, manufacturing jobs fell by 16,000 and construction employment edged down by 1,000. Jobs in government fell by 78,000, exaggerated by faulty seasonal adjustment for altered hiring patterns in local school districts. Private service-producing employment increased by 307,000, reflecting the end of the UPS strike.

Average hourly earnings rose 0.3 percent in nominal terms in September; markets expected a 0.4 percent advance. During the last 12 months, average hourly earnings are up by 3.6 percent, compared with 3.7 percent in the 12 months ending in August. The index of aggregate production-worker hours, a crude proxy for real GDP, dipped in September, and grew at a little over a 1 percent annual rate in the third quarter.



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1997-SE-010914

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INFORMATION

October 7, 1997

MEMORANDUM TO SECRETARY RUBIN
DEPUTY SECRETARY SUMMERS

From: Sheryl K. Sandberg

Re: IRS proposal

Please find attached summary statements of the following 4 pieces of our IRS proposal:

1) NPR

2) Resolution of Taxpayer Complaints
   - Strengthening the Taxpayer Advocate
   - Citizen Advocacy Panels

3) TBOR

4) Governance

All of these statements have been cleared throughout Treasury and the IRS.

While the IRS has agreed to the Taxpayer Advocate and Citizen Advocacy Panel positions in the attached statements, the following concerns remain as to whether these proposals go far enough:

- On the Taxpayer Advocate:
  - Management would propose that we give the Taxpayer Advocate separate funding and resources from the District Offices. (We expect the IRS to agree on this and Nancy will discuss this with Mike Dolan before our morning meeting tomorrow.)
  - Management would also propose that we have the local Taxpayer Advocate Offices report directly to the National Taxpayer Advocate office rather than to the general IRS District Offices. The IRS has not been in favor of this idea.
- On the Citizens Advocacy Panel, the primary question is whether this goes far enough in empowering these panels to assist taxpayers.

EXECUTIVE SECRETARIAT
1280

NPR RECOMMENDATIONS

1. Reduce and Simplify Forms and Notices

- ***Eliminate 30% of All Notices***

By the end of this year, the IRS will eliminate unnecessary notices. This will eliminate more than 45 million pieces of mail, almost one-third of the total number of notices the IRS has been sending to taxpayers.

- ***Rewrite Notices***

By 1999, the IRS will rewrite in plain language all notices, like those for late payment or mathematical errors. Notices will not be released without testing them for clarity and acceptance on ordinary people who do not have accounting or tax law backgrounds.

- ***Simplify Forms and Brochures***

By 2000, the IRS will rewrite basic forms and instructions, including the 1040, and test them for clarity on ordinary citizens. During 1999, the IRS will create easy to read brochures to provide important tax information on benefits and obligations when and where taxpayers need it, such as at hospitals and adoption agencies after the birth or adoption of a baby.

2. Provide Better Telephone Service

- ***Increase Hours***

In order to reduce waiting time and busy signals, the IRS will, by January 1, 1998, expand telephone service to 6 days a week, 16 hours a day. By January 1, 1999, the IRS will expand telephone service to 7 days a week 24-hours a day. Currently, a caller can only get their questions answered by an IRS telephone representative 5 days a week, 12 hours a day. Expanding phone service will be achieved by putting more of the current work force on the phones during peak calling periods, using a new national call-routing system to route calls to the next available customer service representative, and forwarding calls to employees in other time zones during late night hours.

- ***Expand Customized Services***

Beginning in 1999, the IRS will use new call-routing technology to provide service which is geared to specific customer needs, such as the sale of a house, retirement or job change. The IRS will also increase multi-lingual services and provide a nationwide hotline for tax preparers.

3. Make It Easier To Get Answers In Person

- ***Expand Office Hours***

Beginning in 1998, the IRS will open district offices on Saturdays during the busiest weekends of the filing season.

- ***Open More Convenient Locations***

Open additional temporary walk-in centers during peak season for publications and forms in community-based locations, such as banks, libraries or shopping malls.

- ***Institute New "Problem Solving Days"***

Beginning on November 15, 1997, IRS employees will meet with taxpayers once a month on "IRS Problem Solving Days" to hear and resolve problems.

[X. ***Eliminate Unnecessary Penalties***

- ***Study Unnecessary Penalties***

By July 30, 1998, the Administration will propose legislation requiring the Taxpayer Advocate to report to Congress on the fairness and effectiveness (in encouraging compliance) of all tax penalties.]

4. Expand Electronic Filing

- ***Telefile***

By 1998, the IRS will increase by 3 million, or about 10%, the number of taxpayers who are eligible to use Telefile -- the telephone filing system.

- ***Paper-less Taxes***

In 1999, the IRS will enable taxpayers to file "paper-less taxes" [-- eliminating the need for paper signatures and for mailing in W-2s and other forms.]

5. Introduce New Payment Options

For the first time, beginning in 1999, taxpayers who file electronically will be able to pay their taxes with a direct withdrawal from their bank account. In 1999, the IRS will seek credit industry partners to pilot-test credit cards for taxpayers who file electronically.

6. Strengthen Customized Support For Small Businesses

- ***Help Start-Up Businesses***

In 1998, the IRS will team up with other Federal agencies, financial institutions, tax preparers, state and local authorities and others to provide tax information, training and consultative services to small start-up businesses. These services are designed to make record keeping, filing and payment requirements as simple and easy as possible.

- ***Provide Dedicated Phone Services***

The IRS will provide small businesses with 24-hour-a-day phone assistance geared to their needs by the 1999 tax season. In 1998, the IRS will offer Telefile to all businesses.

- ***Work With Troubled Small Businesses***

Work proactively with troubled small businesses to help them comply and avoid future tax problems, expanding on the successful pilot program of San Joaquin Valley.

7. Eliminate Unnecessary Filing

In 1998, the IRS will step-up its efforts to make the nearly 1.8 million older and lower-income taxpayers who are currently filing forms aware that they don't need to file forms, saving them and the IRS time and money.

8. Upgrade Technology to Improve Customer Service

Carrying out the IRS Modernization Plan will improve assistance to customers by making accurate, electronically accessible and up-to-the-minute information available on taxpayer returns and accounts. In 1998, for example, a national call routing system will reduce waiting times and busy signals for taxpayers, simpler menus will let them get to information more easily and they will be able to check on the status of their refunds using a much more reliable Teletax system.

9. Shift How Performance is Measured and Rewarded

In 1998, the IRS will introduce a balanced scorecard to evaluate the IRS and its employees. The scorecard will rate performance on (1) customer service, including customer satisfaction; and (3) business results. The IRS will ban measures that undermine fair treatment of taxpayers, including using enforcement activities to rank districts and assigning dollar goals for employees.

10. Improve Customer Service Training

Before the 1998 filing season, the IRS will have an intensive IRS-wide special training program. This program will initiate the new approach and make specific plans for customer service in 1998. In addition, IRS managers from the Commissioner on down will spend time each year serving customers.

THE IRS OF THE FUTURE:
MORE EFFECTIVE RESOLUTION OF TAXPAYER COMPLAINTS

The Administration proposes to improve the IRS system for resolving taxpayer complaints with two fundamental steps.

STRENGTHEN TAXPAYER ADVOCATE

The Taxpayer Advocate was established to assist taxpayers with unresolved tax problems. Last year, Taxpayer Advocate offices around the country helped more than 300,000 taxpayers resolve their complaints. Our proposal would take the following steps to enable the Taxpayer Advocate to provide greater assistance to taxpayers:

-- Increased resources to meet demand. To ensure that customer demand is fully met, the IRS will substantially expand the national and local taxpayer advocates' staffs. We estimate that this is likely to require a significant increase in the staff, but the IRS will be flexible enough to increase the staffing to meet additional demand. This will make it possible to serve more taxpayers and resolve issues faster.

-- Expanded powers. In determining whether to direct the IRS to take or cease action in specific cases, the Taxpayer Advocate will be specifically authorized to take into account the following factors: whether there is an immediate threat of adverse action (such as the seizure of a residence); whether there has been an unreasonable delay or other unusual circumstance in resolving taxpayer account problems, such as failure to credit previous payments of a tax liability; whether the taxpayer may suffer irreparable harm, including paying significant professional fees, if relief is not granted; and whether there may be a long-term adverse impact on the taxpayer.

-- Increased access. The IRS will begin actively publicizing the availability of the Taxpayer Advocate program and increased staffing will be provided to respond to increased requests for assistance in both the 43 local Taxpayer Advocate offices and the national Taxpayer Advocate office. The IRS will publicize its 800 number for taxpayer complaints in IRS publications that describe taxpayer rights and protections.

--Expanded reporting to Congress. Under TBOR 2, the Taxpayer Advocate is required to compile reports of problems confronting taxpayers, which are forwarded to Congress annually along with reports on IRS employee misconduct. Under this new proposal, the IRS will develop procedures to catalog and review taxpayer complaints, and develop guidelines for disciplining employees. These new data will also be reported to Congress.

CREATE NEW, INDEPENDENT CITIZEN ADVOCACY PANELS

The President will create 33 new local Citizen Advocacy Panels ("CAPs") to ensure that the IRS is responsive to taxpayers' needs and monitor the quality of taxpayer service. The CAPs will be established through a carefully phased-in process, with the first four CAPs expected to begin

operations in selected IRS Districts six months after they are authorized; thereafter the program will expand nationwide as quickly as possible.

The CAPs will be independently staffed and be empowered to work with the Taxpayer Advocate to facilitate the successful resolution of taxpayer cases.

The CAPs will have the following elements and functions:

1) Refer members of the public to the Taxpayer Advocate. Taxpayer complaints about the handling of their case (e.g., denial of a request for relief based on hardship or unsatisfactory resolution of account problems) will be referred to the local Taxpayer Advocate.

2) Monitor performance. The CAPs will independently audit the performance of the local IRS office and its Taxpayer Advocate in serving customers and handling complaints. CAPs will establish a system for tracking complaints on a local level and will have access to IRS management data (but not to information about individual cases). They will also provide public reports and submit recommendations for improvements to the national Taxpayer Advocate, the Commissioner, and the IRS Board of Trustees.

3) Refer problematic cases to national level. If a taxpayer returns to the CAP with a complaint about the resolution of a case at the local level, the CAP will refer the case to the national Taxpayer Advocate and facilitate the successful resolution of taxpayer cases. This gives the taxpayer an avenue for resolving cases that is independent of the local Taxpayer Advocate office. The national Taxpayer Advocate will also be given additional staffing to handle this increased workload.

TAXPAYER BILL OF RIGHTS

The Clinton Administration has been thoroughly dedicated to improving taxpayer services, protecting taxpayer rights, and enhancing the public's understanding of our tax system. In cooperation with the Administration, Congress has passed two separate sets of significant taxpayer rights provisions in the past 16 months, including the Taxpayer Bill of Rights 2, which President Clinton signed into law on July 30, 1996, and many provisions from the Taxpayer Bill of Rights 3 and Tax Simplification Proposals that the Administration announced in April 1997, that were enacted this summer as part of the Taxpayer Relief Act of 1997. Below are additional taxpayer rights proposals which will build on that progress.

Administration Taxpayer Bill of Rights Proposals:

Making IRS Interactions Easier

- Low income taxpayer clinics. Require the Legal Services Corporation to make grants for the development, expansion, or continuation of clinics for low-income taxpayers. This new proposal builds on the current IRS program of partnering with community-based organizations to provide assistance to low-income taxpayers.

- Ensure that taxpayers have adequate representation in tax cases. Authorize fees in *pro bono* cases, payable to the taxpayer's representative. This proposal would encourage specialists to take *pro bono* cases and thereby ensure that low-income taxpayers are able to obtain necessary assistance. In addition, provide attorneys' fees for taxpayers who prevail on an issue that the IRS has already lost in three circuit courts of appeal.

- Ensure availability of installment agreements. Require the Secretary to enter an installment payment agreement with individual taxpayers who cannot pay their entire tax bill if the taxpayer meets certain eligibility requirements. In 1996, over 2.6 million taxpayers entered into installment agreements with the IRS.

- Expand small case jurisdiction of the Tax Court. Increase the definition of "small case" from $10,000 to $25,000, making simplified, less expensive procedures accessible to even more taxpayers.

- Inform taxpayers on statute of limitations. Require the IRS to notify taxpayers of their right to refuse to extend the statute of limitations during an audit or examination, or to limit such extension to particular issues.

- Apply interest rates fairly. When a taxpayer has both an outstanding balance due to the IRS and a refund due from the IRS, interest should not be calculated in a way which would unfairly penalize the taxpayer. This proposal was previously recommended in Treasury's April 1997 interest netting study and TBOR proposals.

- Federal-state cooperative agreements. Allow taxpayers to file a single return to cover

state and federal taxes in states that have entered agreements for joint filing and processing of returns. This would simplify the filing process for many taxpayers.

Strengthening Remedies for Wronged Taxpayers

- Make it easier for innocent spouses to get relief. An "innocent spouse" is a taxpayer who filed a joint return without knowledge of inaccurate information supplied by their spouse. This proposal would expand their rights in two ways. 1. Taxpayers would be granted an additional opportunity to assert innocent spouse relief in Tax Court. 2. Standards for relief for innocent spouses would be changed to help additional taxpayers, including those with smaller tax bills who were previously ineligible.

- Extend refund period for equitable reasons. Extend the statute of limitations for seeking refunds of overpayments for taxpayers who were disabled to the extent of not being able to manage their financial affairs. This policy change is also known as "equitable tolling."

- Allow refund suits before full payment of estate taxes. Under current law, if an estate pays estate taxes in installments, *all* payments must be made before the estate can seek a refund of overpaid taxes. Under this proposal, the court could require a refund so long as the estate is current on its installment payments of the assessed liability.

- Remedies for innocent victims of unauthorized collection actions. Clarify the procedures through which a third party may challenge whether a federal tax lien attaches to their property. Such disputes may arise if a taxpayer has the same or similar name to another taxpayer who owes money to the IRS. Allow persons other than the taxpayer to collect damages in the event of a wrongful collection action.

- Refund of overpayments pending appeals. Allow taxpayers to receive a partial or complete refund while awaiting the final decision of the appellate court, if the Tax Court has determined that there was an overpayment but the taxpayer or the IRS has appealed the decision. Current law prohibits making a refund during the time of appeal.

- Refund of amounts prematurely collected. Require the IRS to refund amounts prematurely collected where a timely petition has been filed in the Tax Court, and authorize the Tax Court to order such a refund.

- Ensure that taxpayers understand their rights. Require that IRS officials present a summary of taxpayer's rights in their initial interview process and offer to answer any reasonable questions about that process before proceeding with the interview.

Other Proposals

- Exception to section 6103 for the National Archives. Amend taxpayer confidentiality

laws to permit disclosure of IRS records to the National Archives and Records Administration. This proposal is subject to safeguards to ensure that individual tax records are not publicly available.

- Study IRS policy on disclosure. Require a study by the Joint Committee on Taxation of how taxpayer confidentiality affects voluntary compliance, and how disclosure limitations affect customer service and prompt resolution of taxpayer problems.

- Offers-in-compromise. Require the IRS to publish schedules of local living allowances, taking into account variations in the cost of living, to use in evaluating offers in compromise. This will allow for public review of these procedures.

[• Information concerning examination criteria. Require the IRS to add to Publication 1 an explanation in simple and nontechnical terms of the criteria and procedures for selecting taxpayers for examination.]

[• Explanation of joint and several liability. Require the IRS to clearly alert taxpayers to their joint and several liabilities on all appropriate publications and instructions. This proposal would alert spouses to the legal rights and responsibilities of signing a joint tax return.]

[• Payment of taxes to the "United States Treasury". Have taxpayers make checks payable to the "United States Treasury" rather than the "Internal Revenue Service." Payment of taxes support all government services -- education, health care and environmental protections. This change would clarify that point.]

Proposals included as part of the Taxpayer Advocate and CAP process:

- Improved response to taxpayer complaints. Require the IRS to develop procedures to catalog and review taxpayer complaints, develop guidelines for disciplining employees, and establish and publish a toll-free number for taxpayer complaints. This proposal would provide better information about taxpayer problems with the IRS, help taxpayers report those problems, and hold IRS employees accountable for their actions.
- Expand authority to issue taxpayer assistance orders. Clarify the definition of "significant hardship," for which the Taxpayer Advocate can issue a "Taxpayer Assistance Order," which directs the IRS to take or cease action. Requests for Taxpayer Assistance Orders can be initiated by taxpayers or by IRS employees who realize that a taxpayer is in a hardship situation. This proposal would allow the Taxpayer Advocate to offer relief to taxpayers in a variety of situations.
- Expand Taxpayer Advocate reporting. Extend the Taxpayer Advocate's current reporting obligations to informal interventions on behalf of taxpayers as well as Taxpayer Assistance Orders. This proposal would allow the public to better evaluate the extent of assistance provided to taxpayers and to evaluate the work of the Taxpayer Advocate.
- Taxpayer Advocate review of penalty administration. Require the Taxpayer Advocate to

provide an independent report to the Congressional tax-writing committees, reviewing the administration and implementation by the IRS of penalty reform recommendations made in OBRA '89, no later than July 30, 1998.

INTERNAL REVENUE SERVICE OVERSIGHT REFORM: CREATION OF THE "IRS BOARD OF TRUSTEES"

Background: The Administration, Members of Congress, the National Commission on Restructuring the Internal Revenue Service and other thoughtful commentators have discussed ways to improve IRS oversight to make the agency more responsive to the public and better able to provide the American people the level of customer service and fair application of the tax laws that we all want from the IRS. In the course of this debate, there has been near universal agreement on the need for two important features to improve IRS performance:

- The need to provide private sector expertise and input to the Treasury Department in a manner tailored to the mission of the IRS.
- The need for enhanced Executive Branch oversight consistent with Constitutional principles.

While the Administration has been and remains strongly committed to strengthening Treasury's governmental oversight of the IRS, this proposal focusses on establishing a robust new mechanism for private sector input while preserving accountability to the American people and preventing conflicts of interest.

Meaningful Private Sector Input through the IRS Board of Trustees

Building on the Administration's original proposal to establish an IRS Advisory Board, the Administration proposes creation of the IRS Board of Trustees. Like the proposed Advisory Board, the Trustees would provide private sector expertise to the Secretary of the Treasury in the areas identified by the Administration, the Commission, and the Kerrey-Portman proposed legislation, including customer service, taxpayer rights, technology, business organization, performance measures, and tax administration.

To ensure that the Board of Trustees would give the private sector a sufficiently powerful voice, the Administration proposes that the Board of Trustees:

- **combine private sector expertise with public sector experience**. The Board of Trustees would be composed of five private sector members appointed by the President and confirmed by the Senate, including one representative of an organization that represents a substantial number of IRS employees, the Deputy Secretary of the Treasury, the IRS Commissioner,[and one other Treasury official appointed by the President]. Having these public officials on the Board of Trustees would provide in-depth knowledge of the agency and the parameters within which it operates.

- **have enhanced, statutorily defined responsibilities**. Defining the Trustees' authority by statute makes that authority independent of the Executive Branch. The Trustees would have the responsibility to review, advise and make recommendations to the Secretary of the Treasury on:

  IRS long-term strategic, operational and organizational plans;
  IRS performance measures;
  customer service issues; and
  IRS Citizen Advisory Panel recommendations.

The IRS and Treasury would provide the Trustees information relevant to their responsibilities.

- [**The Secretary would be required to respond within 60 days** to any recommendation made by the Board of Trustees, a period which may be extended if the Secretary determines it is necessary.]

- **report independently** and at least annually to the Secretary of the Treasury, the President, and the Congress.

- **receive reports and recommendations directly from the Citizen Advisory Panels**. In this manner, the new Citizen Advisory Panels will be empowered to bring their concerns directly to the highest level of IRS oversight, and the Trustees will have the benefit of receiving up-to-date information from outside the IRS on taxpayer issues around the country.

- **serve staggered six-year terms** (rather than the proposed two-year terms of the Advisory Board.) Longer terms will enable the Trustees to develop relationships with Administration and Congressional officials, and to become more knowledgeable about the IRS, the tax code, and tax administration, so that they can make stronger recommendations. The longer and staggered terms of the Trustees provide greater continuity in oversight that will span different Administrations.

The Trustees would have a small staff supplied by the Treasury Department, and would meet four to six times per year. The Deputy Secretary of the Treasury would serve as chair. Trustees could receive nominal compensation, and would be reimbursed for their expenses. The Trustees would be subject to all existing ethics laws, including laws on conflicts of interest.

Enhanced Executive Branch oversight while preserving accountability

To preserve accountability to the American people, the Secretary would retain full authority to administer and enforce the Internal Revenue Code, and the IRS Commissioner would still be appointed by the President, confirmed by the Senate, and report to the Secretary. Demonstrating the seriousness of the commitment to enhanced oversight, the Administration's proposed legislation requires the Secretary and the Deputy Secretary to testify on their stewardship of the IRS at least annually before Congress.

In March 1996 the Administration created the Modernization Management Board (MMB), composed of senior IRS and Treasury officials with responsibility for managing the IRS. To institutionalize this heightened level of oversight, on June 24, 1997 the President signed an Executive Order creating the IRS Management Board, which is chaired by the Deputy Secretary and includes senior IRS and Treasury managers. The President intends to revise the Executive Order to streamline the IRS Management Board.

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TREASURY CLEARANCE SHEET

NO. _____
Date _____

MEMORANDUM FOR: ☒ SECRETARY ☐ DEPUTY SECRETARY ☐ EXECUTIVE SECRETARY
☐ ACTION ☐ BRIEFING ☐ INFORMATION ☐ LEGISLATION
☐ PRESS RELEASE ☐ PUBLICATION ☐ REGULATION ☐ SPEECH
☐ TESTIMONY ☐ OTHER _____

FROM: S. Sandberg
THROUGH:
SUBJECT: IRS Materials

REVIEW OFFICES (Check when office clears)

- ☐ Under Secretary for Finance
  - ☐ Domestic Finance
  - ☐ Economic Policy
  - ☐ Fiscal
    - ☐ FMS
    - ☐ Public Debt
- ☐ Under Secretary for International Affairs
  - ☐ International Affairs
- ☐ Enforcement
  - ☐ ATF
  - ☐ Customs
  - ☐ FLETC
  - ☐ Secret Service
- ☒ General Counsel
- ☐ Inspector General
- ☒ IRS
- ☒ Legislative Affairs
- ☒ Management
- ☐ OCC
- ☐ Policy Management
  - ☐ Scheduling
- ☐ Public Affairs/Liaison
- ☐ Tax Policy
- ☐ Treasurer
  - ☐ E & P
  - ☐ Mint
  - ☐ Savings Bonds
- ☐ Other _____

NAME (Please Type)	INITIAL	DATE	OFFICE	TEL. NO.
INITIATOR(S)				
S. Sandberg				
REVIEWERS				
N. Killefer	NI	10/7/97	– With changes to NPR recommendations (per mtg w/ NPR/Boorstin/Killefer)	
E. Knight			– With changes given orally to Sheryl on 7/10	
Robertson/Bean				
Schloss				
Sandberg/Summers				
Krupsky/Lubick				
Dolan				
Solomon/Froman				

SPECIAL INSTRUCTIONS

Please return comments/cleared to Neal Cowtock/Alan Keller by COB Today

☐ Review Officer _____ Date _____

☒ Executive Secretary 10/7 _____ Date _____

DO F 80-02 1 (04/89)

TREASURY CLEARANCE SHEET

NO. _____
Date _____

MEMORANDUM FOR: ☒ SECRETARY ☐ DEPUTY SECRETARY ☐ EXECUTIVE SECRETARY
☐ ACTION ☐ BRIEFING ☐ INFORMATION ☐ LEGISLATION
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- ☒ General Counsel
- ☐ Inspector General
- ☒ IRS
- ☒ Legislative Affairs
- ☒ Management
- ☐ OCC
- ☐ Policy Management
  - ☐ Scheduling
- ☐ Public Affairs/Liaison
- ☐ Tax Policy
- ☐ Treasurer
  - ☐ E & P
  - ☐ Mint
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- ☐ Other _____

NAME (Please Type)	INITIAL	DATE	OFFICE	TEL. NO.
INITIATOR(S)				
S. Sandberg				
REVIEWERS				
N. Killefer			GC	
E. Knight	EJK	10/7/97	see separate revised sovereignty piece from Elvic.	
Robertson/Bean				
Schloss				
Goldberg/Summers				
Krupsky/Lubick				
Cohen				
Dolan	AC cleared with changes -NC	10/7/97		
Glomon/Fromian				

SPECIAL INSTRUCTIONS

Please return comments/cleared to Neal Cornstock/Alan Kelley by COB Today

☐ Review Officer _____ Date _____

☒ Executive Secretary 10/7 _____ Date _____

DO F 80.02.1 (04/89)

TREASURY CLEARANCE SHEET

NO. _____
Date _____

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☐ ACTION ☐ BRIEFING ☐ INFORMATION ☐ LEGISLATION
☐ PRESS RELEASE ☐ PUBLICATION ☐ REGULATION ☐ SPEECH
☐ TESTIMONY ☐ OTHER _____

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    - ☐ Public Debt
- ☐ Under Secretary for International Affairs
  - ☐ International Affairs
- ☐ Enforcement
  - ☐ ATF
  - ☐ Customs
  - ☐ FLETC
  - ☐ Secret Service
- ☒ General Counsel
- ☐ Inspector General
- ☒ IRS
- ☒ Legislative Affairs
- ☒ Management
- ☐ OCC
- ☐ Policy Management
  - ☐ Scheduling
- ☐ Public Affairs/Liaison
- ☐ Tax Policy
- ☐ Treasurer
  - ☐ E & P
  - ☐ Mint
  - ☐ Savings Bonds
- ☐ Other _____

NAME (Please Type)	INITIAL	DATE	OFFICE	TEL. NO.
INITIATOR(S)				
S. Sandberg				
REVIEWERS				
N. Killefer				
E. Knight				
Robertson/Bean				
Schloss				
Sandberg/Summers				
Krupsky/Lubick	AL	OCT 7 1997		
Dolan				
Solomon/Froman				

SPECIAL INSTRUCTIONS

Please return comments/cleared to Neal Cowtash/Alan Keller by COB Today

☐ Review Officer _____ Date _____

☒ Executive Secretary 10/7 Date _____

DO F 80-02 1 (04/89)

TREASURY CLEARANCE SHEET

NO. _____
Date _____

MEMORANDUM FOR: ☒ SECRETARY ☒ DEPUTY SECRETARY ☐ EXECUTIVE SECRETARY
☐ ACTION ☐ BRIEFING ☐ INFORMATION ☐ LEGISLATION
☐ PRESS RELEASE ☐ PUBLICATION ☐ REGULATION ☐ SPEECH
☐ TESTIMONY ☐ OTHER _____

FROM: S. Sandberg
THROUGH:
SUBJECT: IRS Materials

REVIEW OFFICES (Check when office clears)

- ☐ Under Secretary for Finance
  - ☐ Domestic Finance
  - ☐ Economic Policy
  - ☐ Fiscal
    - ☐ FMS
    - ☐ Public Debt
- ☐ Under Secretary for International Affairs
  - ☐ International Affairs
- ☐ Enforcement
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  - ☐ Customs
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REVIEWERS				
N. Killefer				
E. Knight				
Robertson/Bean				
Schloss				
Sandberg/Summers				
Krupsky/Lubick	J Buck	10/7/97	Approved subject to edits + comments on attached documents	2-4201
Dolan				
Solomon/Froman				

SPECIAL INSTRUCTIONS
Please return comments/cleared to Neal Cowtak/Alan Kelley by COB Today

☐ Review Officer _____ Date _____ ☒ Executive Secretary 10/7 Date _____

DO F 80-02.1 (04/89)

TREASURY CLEARANCE SHEET

NO. _____
Date _____

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Krupsky/Lubick				
Dolan				
Solomon/Froman	JB	10/27		

SPECIAL INSTRUCTIONS

Please return comments/cleared to Neal Cornstock/Alan Keller by COB Today

☐ Review Officer Date

☒ Executive Secretary 10/7 Date

OO F 80.02 1 (04/89)

****
*** ACTIVITY REPORT ***
****

TRANSMISSION OK

TX/RX NO.	1258
CONNECTION TEL	98228644
CONNECTION ID	SEC OF TREASURY
START TIME	10/07 21:48
USAGE TIME	06'52
PAGES	13
RESULT	OK

FYI
Conduct

WATCH faxed to NER
10/7/97 LS

WATCH cc to NF
10/8/97

Please log and file
with clearance sheets

10/8/97

1997-SE-011274

October 15, 1997

MEMORANDUM TO THE IRS STRATEGY GROUP

FROM: Sheryl Sandberg

RE: IRS

This is a summary of where we are following the IRS strategy meeting Larry held yesterday.

Legislation. Treasury staff are working with the House Ways & Means Democrats to draft substitute language on governance, taxpayer bill of rights provisions, and strengthening the taxpayer advocate proposals.

Implementing Administrative Actions. Management will draft a plan for implementing the proposals we have announced which do not require legislation (such as 24 hour phone service and rewriting forms) as well as a plan for the establishment of the Citizen Advocacy Panels.

Funding of New Initiatives. We will be requesting increased funding for customer service, the appeals process, and the Taxpayer Advocate in our FY1999 appropriation. We have asked the IRS to evaluate possibilities for reallocating funds to these areas for FY 1998.

Problem Resolution Day. Given Larry's concern that we will not be able to meet demand adequately, Management is working with the IRS to estimate expected demand and determine the maximum number of taxpayers the IRS can assist on that day. Once Management has ascertained maximum capacity, the roll out group will work with Public Affairs to finalize a press strategy for that day. Preliminary thoughts are to have Treasury officials including the Secretary and Deputy Secretary visit resolution sites and speak with regional press. Legislative Affairs has informed us that several Members have already announced their intention to be active participants on Nov. 15 as well.

NPR Release. The release of the final NPR report is scheduled for Nov. 1. Treasury will have the opportunity to review the report before it is sent to final publishing. As we have already announced the highlights of this report, we do not believe a large public roll out is beneficial.

Press Strategy. Public Affairs is working on a list of potential events to continue generating news of Treasury's ongoing reform of the IRS in key Congressional districts as well as on a national level. Larry has asked Tax Policy and Management to work very closely with Public Affairs in the next few weeks to ensure that we are fully informing the press of all positive developments that relate to the IRS and taxpayer issues.

IRS Employee Communication. Management will be working with the roll out group to ensure that Treasury reaches out to IRS employees. One idea is a possible teleconference with Secretary Rubin and IRS employees leading up to Nov. 15. Public Liaison is thinking about an event

The Secretary of the Treasury

October 20, 1997

NOTE TO SHERYL SANDBERG

FROM: Bob Rubin

Is this the entire memo - seemed to run out at the end.

Legislation - Good

Implementing Administrative Actions - Good

Funding of New Initiatives- Good

Problem Resolution Day - If need be, can we break this into two sections, e.g., A through M and N through Z. What about the phone service which we mistakenly announced?

NPR Release - We need to make sure that it doesn't create trouble.

From: Sheryl Sandberg
To: ROBERTSONL, SCHLOSSH, SALLETS, ISRAELD, DOPO6.KNIG...
Date: 10/15/97 12:55pm
Subject: IRS Strategy

Attached please find a memo summarizing where we are following yesterday's meeting. As always, please call with any thoughts or suggestions. Thanks.

CC: PANASITIL, GATHERSS, JONESJA, STRICKLERM, TUCKERI,...