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The Honorable William V. Roth, Jr.
Chairman, Committee on Finance
United States Senate

Subject: IRS Restructuring Act Implementation

This letter responds to your information request made following the Committee's February 2, 2000, hearing on the status of IRS' efforts to implement the IRS Restructuring and Reform Act of 1998. In general, you asked us for additional information on IRS' use of levies and seizures, its balanced measurement and management information systems, and its implementation of Restructuring Act taxpayer rights and protection provisions. The enclosure to this letter includes your specific questions and our responses. Our comments are based on the work we did to prepare for the February 2, 2000, hearing and our previous studies of tax administration issues.

We appreciate the opportunity to assist you in your oversight of IRS' reform efforts. Please call me or Thomas Richards on (202) 512-9110 should you have any questions. Deborah Parker Junod and Jonda Van Pelt were key contributors to this letter.

Sincerely yours,

James R. White
Director, Tax Policy and
Administration Issues

GAO Responses to Committee Questions

Committee Question: While the use of levies and seizures has plummeted, the Tax IG (Treasury Inspector General for Tax Administration) and GAO have found that when IRS did engage in these activities, it violated the law or IRS procedures in 33 percent of the few levies and seizures made over the past year. What can be done to ensure that levies and seizures are done in accordance with the law?

GAO Response: In our report on IRS' use of its seizure authority,¹ we concluded that because IRS' controls were not sufficient to prevent departures from pre-Restructuring Act process requirements, it was unclear to us how a continued reliance on manual reviews of revenue officer case file information would be sufficient to prevent departures from requirements in the future. Thus, we looked for a relatively "fail-safe" check that could stop a collection case from advancing to seizure if a requirement was not met. During our review, we found that IRS was expanding an automated field collection system to cover the seizure process, including plans for the computer generation of seizure forms. This automated system had linkages to other information systems in IRS, such as the masterfile, which contain account data and notification data. In discussions with the IRS personnel developing the automated system, we learned that programming could be done to prevent the generation of forms, such as the form needed for seizure approval, if taxpayer protection requirements were not documented as met. Also, expanding the capabilities of this system to automate checks that process requirements were met would allow the managerial review to focus largely on judgmental areas, such as the adequacy of revenue officer contacts with taxpayers. Accordingly, we recommended that IRS build controls into the automated field collection system that would act as a check to prevent departures from seizure process requirements that are verifiable on an automated basis (e.g., required taxpayer notifications made and time requirements followed).

Committee Question: We have heard a great deal about "balanced measures" for evaluating employees. Please explain to the Committee how you interpret "balanced measures."

GAO Response: IRS' balanced performance measurement system is intended to ensure that IRS does not focus on revenue production at the expense of taxpayers' interests. IRS is currently using three types of measures to assess how well it is meeting its overall mission to provide quality customer service and to enforce the tax law. The three measures are (1) customer satisfaction, (2) business results (quality and quantity data), and (3) employee satisfaction. Given concerns regarding IRS' past use of enforcement statistics to measure performance, IRS has established what it believes are outcome-neutral quantity measures. For example, instead of measuring revenue generated by compliance employees, IRS is monitoring the total number of cases closed, regardless of how those cases were closed.

¹See *IRS Seizures: Needed for Compliance but Processes for Protecting Taxpayer Rights Have Some Weaknesses* (GAO/GGD-00-4, Nov. 29, 1999).

To date, the balanced performance measurement system has not been applied to employee evaluations. IRS is still exploring the best way to link the employee evaluation system to its overall strategic goals and measures. In the meantime, we recently reported that IRS could use to greater advantage several features of its existing evaluation process, such as the narrative comments and field visits, to reinforce the importance of customer service among enforcement employees.²

Committee Question: The Tax IG's office found numerous violations of the law that prohibits IRS employees from being evaluated based on enforcement statistics. In 1988, we outlawed this practice with respect to collection employees. We found that the IRS ignored the law. In the Restructuring Act, we prohibited any IRS employee from being evaluated based upon enforcement statistics. This could result in taxpayer rights being violated. It seems we are going down the same path. What are your views? Are we going down the same path?

GAO Response: As we noted in our testimony,³ IRS has made changes intended to prevent misuse of enforcement statistics. Some of these changes—such as expanding the number of employees who may not be evaluated on the basis of enforcement statistics—were made immediately or shortly after the enactment of the Restructuring Act. Others—such as IRS' issuance of a handbook on the appropriate use of performance measures and clarification of the requirements for certifying that IRS managers have not used enforcement statistics inappropriately—are more recent. Neither we nor IRS have evaluated the effectiveness of these changes. At present, IRS has some but not all of the performance information it needs to make such an assessment. Specifically, IRS' spring 1999 employee survey found that about 7 percent of Collection employees and 9 percent of Examination employees reported that their supervisors had either discussed enforcement statistics with them or used statistics in their evaluations. The results of IRS' next survey should provide comparative data to assess whether the agency's actions have made progress in reducing these numbers.

Committee Question: The Tax IG and GAO have found that IRS' management information systems need work. Management must have access to information in a usable format. For example, the Tax IG notes that IRS does not have a database to reliably track innocent spouse cases. Do you agree this is an issue? What impact does this lack of information have on taxpayer rights?

² IRS Employee Evaluations: Opportunities to Better Balance Customer Service and Compliance Objectives (GAO/GGD-00-1, Oct. 14, 1999).

³ IRS Restructuring Act: Implementation Under Way but Agency Modernization Important to Success (GAO/T-GGD-00-53, Feb. 2, 2000).

GAO Response: Lack of adequate management information is a serious issue at IRS. We have reported on a number of occasions that IRS' systems difficulties hinder efforts to manage its operations and better serve taxpayers. These difficulties will continue until IRS successfully modernizes its information systems. At the most fundamental level, IRS does not have the ability to access up-to-date, comprehensive information about individual taxpayer accounts, and as demonstrated by IRS' inability to track innocent spouse cases, this lack clearly undermines IRS' ability to provide top-quality service to taxpayers. IRS' management information systems are also not structured to provide comprehensive summary data for taxpayer segments, such as small businesses, or groups of taxpayers undergoing enforcement actions. In doing our work on small business compliance issues, for example, we found that IRS could not reliably provide data on the extent to which small businesses filed various required forms, when they made tax deposits, or the extent to which they were involved in a variety of enforcement processes. Without these types of data, IRS managers will continue to have a difficult time monitoring and managing program outcomes—including identifying taxpayer needs, evaluating the effectiveness of programs to meet those needs, and ensuring protection of taxpayer rights.⁴

Committee Question: Do you believe that IRS has effectively implemented the Restructuring Act's taxpayer protections?

GAO Response: To date, IRS has issued instructions, procedures, and regulations to implement the legal provisions of the act. As Commissioner Rossotti has testified, however, IRS has several years of work ahead to make the provisions work efficiently and effectively. To do so, he sees training and management as immediate challenges. We agree that these are important areas that must be addressed. But we would add an additional area to his list, that is, the systematic capture of data that would be useful for assessing the effectiveness of Restructuring Act implementation. For example, we concluded in our report on seizures that:

- IRS had no plans to change its management information reporting on seizure results from what was in place in fiscal year 1997. This was a management information system that collection officials said provided little or no insights on the appropriate or consistent use of seizure authority or the resolution of problems experienced by taxpayers.
- IRS had not fully developed the capability to monitor the quality of seizure work in terms of the appropriateness of seizure decisionmaking or the conduct of asset management and sales activities.

⁴As we testified before the Senate Committee on Small Business, IRS is taking some interim steps to address its data problems. However, IRS' interim steps will not provide real-time information about the full range of transactions currently ongoing for a particular taxpayer. See [Small Business: Taxpayers Face Many Layers of Requirements](#) (GAO/T-GGD-99-76, Apr. 12, 1999).

Accordingly, to strengthen oversight of seizure activities, we recommended that IRS (1) expand a recently reconstituted collection quality review program to include an assessment of the use of seizure authority and of asset management and disposal activities and (2) establish a method for providing IRS senior managers with useful information to monitor the use of seizure authority and resolution of taxpayer complaints.

Committee Question: GAO recently completed a study of IRS seizure authority and made various recommendations to IRS on how to implement the taxpayer protections included in the Restructuring Act. The report also noted some startling examples of problems with IRS' sale and custody of seized property. Please comment on your findings and recommendations.

GAO Response: The tax system depends on taxpayers voluntarily paying their taxes, a practice dependent on taxpayers having confidence that their neighbors or competitors are also complying. The use of seizure authority is a necessary part of a tax enforcement program that is intended to help provide this confidence. Taxpayers with substantial amounts of delinquent taxes, long-standing delinquencies, repeated failures to respond to nonseizure collection actions, and substantial assets cannot be allowed to evade payment without risking the credibility and fairness of the tax system. However, the protection of those taxpayers' rights and interests is also crucial to a credible and fair tax system. In this regard, IRS' seizure process had a number of weaknesses—weaknesses that are not all being addressed by changes being made pursuant to the Restructuring Act. Accordingly, we made recommendations in four key process areas.⁵

First, to strengthen IRS' processes for ensuring that seizure authority is appropriately exercised—that is, taxpayers are made aware of their responsibilities and provided time to comply, proposed seizure actions are evaluated for necessity and appropriateness, and seizure actions are conducted appropriately—and when warranted is exercised, we recommended that the Commissioner of Internal Revenue

- build controls into the automated field collection system, currently under development, that would act as a check to prevent departures from seizure process requirements that are verifiable on an automated basis (e.g., required taxpayer notifications made and time requirements followed);
- provide guidance that describes the lengths that revenue officers are to go to (1) personally contact delinquent taxpayers, (2) obtain financial information from delinquent taxpayers or develop such information from alternative sources, and (3) develop and document estimates of the minimum sales price at which the seized assets could be sold;

⁵ GAO/GGD-00-4, Nov. 29, 1999.

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- require revenue officers to document the basis for judgments made (e.g., the basis for determining that sufficient attempts were made to gain taxpayer cooperation to pay delinquent taxes and the basis for determining the impact on taxpayer dependents) to facilitate managerial review of case files; and
 - provide written guidance on when seizure actions ought to be taken, that is, the conditions and circumstances that would justify seizure action and the responsibilities of senior managers to ensure that such actions are taken.

Second, to improve IRS' process for controlling assets after seizure, we recommended that the Commissioner fully implement federal financial management guidelines to include

- ensuring that revenue officers document basic asset control information, including detailed asset identity descriptions, asset condition, and custody information;
- ensuring that basic control information is entered in a timely manner and included in the revised automated inventory control system;
- ensuring asset security and accountability through scrutiny of decisions regarding security and periodic reconciliation of inventory records to assets-on-hand (periodic physical inventories); and
- requiring revenue officers to record and account for all theft, loss, and damage expenses of each asset and document efforts to obtain reimbursement for the expenses in collection case files.

Third, to strengthen the sales process for ensuring that the highest prices are obtained from seized asset sales, we recommended that the Commissioner

- develop guidelines for establishing minimum asset prices to preclude the use of arbitrary percentage reductions or the amount of the delinquency as the minimum price and
- take the steps necessary to promote reasonable competition among potential buyers during asset sales.

Fourth, to strengthen oversight of seizure activities, we recommended that the Commissioner

- expand the quality review of collection cases to include an assessment of the use of seizure authority and of asset management and disposal activities and
- establish a method for providing IRS senior managers with useful information to monitor the use of seizure authority and resolution of taxpayer complaints.

Committee Question: IRS should collect taxes in a lawful manner from taxpayers who refuse to pay. You noted in your written testimony that IRS management officials and frontline employees believed that seizure authority was not being used when appropriate. What can be done?

GAO Response: In developing the recommendations for our report that deal with ensuring the appropriate use of seizure authority, we took a systems approach for evaluating seizure decisionmaking. The systems approach required us to look at the published guidance on the appropriate use of seizure authority, the case file documentation of the decisionmaking to facilitate managerial review, the nationwide postreview of the decisionmaking for quality and consistency and the reporting of the review information to senior management. Given the deficiencies identified in each area, we recommended that the Commissioner

- provide written guidance on when seizure actions ought to be taken, that is, the conditions and circumstances that would justify seizure action and the responsibilities of senior managers to ensure that such actions are taken;
- require revenue officers to document the basis for judgments made (e.g., the basis for determining that sufficient attempts were made to gain taxpayer cooperation to pay delinquent taxes and the basis for determining the impact on taxpayer dependents) to facilitate managerial review of case files;
- expand the quality review of collection cases to include an assessment of the use of seizure authority and of asset management and disposal activities; and
- establish a method for providing IRS senior managers with useful information to monitor the use of seizure authority and resolution of taxpayer complaints.

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