

# JOINT COMMITTEE ON TAXATION

## PRESS RELEASE

---

JCT Press Release: 00-02

March 16, 2000

For Immediate Release:

For Further Information, Contact: Michael Boren (202-225-3621)

([Michael.Boren@mail.house.gov](mailto:Michael.Boren@mail.house.gov))

The staff of the Joint Committee on Taxation (the “Joint Committee”) today submitted a Report Of Investigation of Allegations Relating to Internal Revenue Service Handling of Tax-Exempt Organization Matters to Chairman William V. Roth, Jr., Vice-Chairman Bill Archer, Senator Daniel Patrick Moynihan, and Congressman Charles B. Rangel of the Joint Committee. Attached is the Executive Summary containing an overview of the Joint Committee staff investigation and findings.

On March 24, 1997, Chairman Roth, Vice-Chairman Archer, Senator Moynihan, and Congressman Rangel (the “Members”) sent a letter to then-Joint Committee Chief of Staff Kenneth J. Kies indicating their concern about recent reports alleging politically motivated treatment of certain tax-exempt organizations and individuals by the Internal Revenue Service (“IRS”). The Members directed the Joint Committee staff to investigate whether the IRS’s selection of tax-exempt organizations (and individuals associated with such tax-exempt organizations) for audit had been politically motivated. The scope of the investigation was limited to tax-exempt organizations described in Internal Revenue Code sections 501(c)(3) (“charitable, educational, religious, etc., organizations”) and 501(c)(4) (“social welfare organizations”). Because allegations had also been made concerning IRS handling of determination letter applications, a review of these IRS processes was included within the scope of the Joint Committee staff investigation.

The Joint Committee staff report contains the following information: (1) an executive summary of the investigation and findings (Part I); (2) a summary of the allegations (Part II); (3) a detailed discussion of the Joint Committee staff findings (Part III); (4) the methodology employed by the Joint Committee staff in conducting its investigation (Part IV); (5) details of IRS operations relating to tax-exempt organizations (Part V); and (6) exhibits and appendices containing additional information relevant to the investigation (Exhibits 1-1, 1-2, and 1-3 and Appendices A and B).

## **I. EXECUTIVE SUMMARY**

### **Summary of allegations made concerning IRS handling of exempt organization matters**

Beginning in 1996, allegations appeared in various media reports that the IRS was engaged in politically targeted examinations of tax-exempt organizations. Additional allegations were made in submissions to, and by individuals interviewed by, the Joint Committee staff in connection with its investigation.

Some allegations related to IRS actions with respect to political and lobbying activities of specific tax-exempt organizations. Other allegations related to more general targeting by the IRS of organizations with views opposed to the Clinton Administration. These allegations can be summarized as follows:

- the IRS handling of determination letter requests for organizations perceived to represent political views that were opposed to the Clinton Administration was biased;
- the IRS inappropriately granted determination letters or expedited the granting of determination letters for organizations whose views were in line with those of the Clinton Administration;
- the IRS handling of examinations of tax-exempt organizations (and individuals associated with such organizations) that were opposed to or were critical of the Clinton Administration's policies was biased;
- the IRS did not conduct examinations of organizations favored by the Clinton Administration engaged in activities similar to other tax-exempt organizations that were under examination;
- the IRS inappropriately initiated examinations of certain tax-exempt organizations in response to information provided to the IRS by the White House or other influential individuals (e.g., Members of Congress) whose views aligned with the Clinton Administration and in opposition to the organizations targeted; and
- IRS employees assigned to cases of tax-exempt organizations whose views were in opposition to the Clinton Administration exhibited bias in their handling of such cases.

### **Joint Committee staff investigation in general**

The Joint Committee staff investigation focused on a review of (1) how the IRS generally administered the law relating to the political and lobbying activities of tax-exempt organizations, (2) how the IRS generally administered determination letter requests of tax-exempt organizations, (3) how the IRS generally selected tax-exempt organizations for examination, and

(4) the IRS handling of matters relating to certain specific tax-exempt organizations and individuals associated with such tax-exempt organizations.

### **Joint Committee staff review of IRS handling of specific tax-exempt organizations and individuals**

The Joint Committee staff identified 142 tax-exempt organizations (and individuals related to such organizations) that were potentially within the scope of the Joint Committee investigation through the following sources: (1) media reports, (2) contacts from tax-exempt organizations and individuals, (3) information provided by the IRS (including the IRS Office of Inspection) and the Treasury Inspector General, and (4) information received from the Senate Governmental Affairs Committee. From these sources, the Joint Committee staff identified more than 130 organizations and individuals potentially within the scope of the investigation. The Joint Committee staff received briefings and/or summary materials prepared by IRS National Office personnel relating to each of these organizations or individuals. The Joint Committee staff identified 83 organizations and individuals for which complete case file reviews were conducted to evaluate IRS conduct with respect to the taxpayers.

The Joint Committee staff reviewed hundreds of boxes of case file material supplied by the IRS with respect to the organizations and individuals identified as within the scope of the Joint Committee staff investigation. In addition, the Joint Committee staff conducted in-depth interviews of 57 current and former IRS employees, many of whom were directly or indirectly involved in the cases of the organizations and individuals within the scope of the Joint Committee staff investigation. Follow-up interviews were conducted with a number of IRS employees to clarify inconsistencies in statements or to pursue additional information relating to the cases in question. The Joint Committee staff reviewed personnel files of IRS employees in certain circumstances.

The Joint Committee staff contacted organizations and individuals whose names had appeared in media reports and invited the organizations to meet with Joint Committee staff or to submit written responses to questions. The Joint Committee staff met with representatives of ten organizations or individuals and received written submissions from a number of other organizations.

### **Joint Committee staff review of other materials**

In addition to the review of specific case file information with respect to organizations and individuals within the scope of the Joint Committee staff investigation, the Joint Committee staff reviewed extensive other information relating to IRS handling of tax-exempt organization matters in general and other information that may be relevant to the cases within the scope of the investigation. The Joint Committee staff review included the following information: (1) all determination letter and examination data for tax-exempt organizations from 1990 through 1998, (2) all Congressional correspondence to the IRS from 1995 through 1997, (3) IRS management

information and reports from 1990-1997, (4) IRS correspondence and case tracking systems, (5) Internal Revenue Manual procedures, (6) policies and procedures of the IRS, the Treasury Department, and the White House with respect to conduct of employees and employee involvement in specific taxpayer matters, (7) all allegations of employee misconduct with respect to tax-exempt organization matters from 1990-1998, and (8) information supplied by the Justice Department, the Treasury Department, and the White House.

### **Summary of Joint Committee staff findings**

Most of the information supplied by the IRS to the Joint Committee staff in the course of its investigation constitutes taxpayer return information that cannot be disclosed pursuant to section 6103 of the Internal Revenue Code.<sup>1</sup> Thus, the Joint Committee staff findings do not include any specific findings of the Joint Committee staff with respect to the organizations and individuals within the scope of the Joint Committee staff investigation or any information that might identify such organizations or individuals. These findings represent the general conclusions drawn by the Joint Committee staff from its extensive review of IRS case file information, other information received from the IRS, other Federal agencies, and other sources, and interviews with relevant Federal employees and others.

#### **IRS handling of tax-exempt organization determination letter requests**

- The Joint Committee staff found no credible evidence that the IRS delayed or accelerated issuance of determination letters to tax-exempt organizations based on the nature of the organization's perceived views.
- The Joint Committee staff found that determination letter applications forwarded to the IRS National Office for handling took much longer on average for the IRS to process. The Joint Committee staff found no credible evidence that the forwarding of certain determination letter applications to the IRS National Office was the result of a deliberate effort by IRS employees to subject organizations with views that opposed the Clinton Administration to more intense scrutiny. The Joint Committee staff found that the delay by the IRS National Office in processing the determination letter application of one organization was unacceptably slow, but the Joint Committee staff found no credible evidence either of bias by IRS employees or other political intervention causing the delay.

---

<sup>1</sup> Under section 6103(f)(4), the Chief of Staff of the Joint Committee may receive taxpayer return information from the IRS. However, such Chief of Staff may not disclose any taxpayer return information received. Unauthorized disclosure of tax return information protected under section 6103 is a felony punishable by a fine of up to \$5,000, imprisonment for up to five years, or both.

#### IRS handling of tax-exempt organization examinations

- The Joint Committee staff found no credible evidence that tax-exempt organizations were selected for examination, or that the IRS altered the manner in which examinations of tax-exempt organizations were conducted, based on the views espoused by the organizations or individuals related to the organization.
- The Joint Committee staff found no credible evidence of intervention by Clinton Administration officials (including Treasury Department and White House officials) in the selection of (or the failure to select) tax-exempt organizations for examination.
- The Joint Committee staff found that certain cases involving high-profile tax-exempt organizations and individuals received intense internal review and scrutiny by the IRS; however, the Joint Committee staff found no credible evidence that such increased review or scrutiny was politically motivated.
- The Joint Committee staff found that the interaction between the Office of IRS Chief Counsel and the Office of the Assistant Commissioner (Employee Plans and Exempt Organizations) with respect to technical advice requests results in significant delays in the processing of such requests and contributes to a reluctance by certain IRS Key District Office employees to submit such requests for technical advice. These delays contributed to a perception that the IRS was not treating all tax-exempt organizations consistently. The Joint Committee staff concluded that the delays in processing such requests were unnecessarily excessive in some cases.
- The Joint Committee staff found no credible evidence that the IRS had improperly targeted for examination individuals related to tax-exempt organizations within the scope of the Joint Committee staff investigation.

#### IRS use of information items in the tax-exempt organization area

- The Joint Committee staff found no credible evidence that the IRS systematically used information items (such as media reports, letters from Members of Congress, letters from taxpayers, etc.) to identify for examination tax-exempt organizations that espouse views that are opposed to the political views of the Clinton Administration. Prior to the middle of 1998, most IRS Key District Offices destroyed information items when a decision was made not to pursue the item. Thus, the Joint Committee staff could not evaluate whether there was a pattern of behavior by the IRS in the handling of information items that resulted in certain organizations being selected for examination and other organizations engaged in similar activities not being selected for examination. The Joint Committee staff found that the IRS had initiated examinations of certain tax-exempt organizations with views clearly in opposition to the Clinton Administration based on media reports and other information items provided to the IRS. The Joint Committee staff found that the IRS also initiated examinations of organizations that would be considered supportive

- of the Clinton Administration based on such information items.
- The Joint Committee staff found a few instances in which the stated IRS National Office policy of sending information items without comment to the appropriate IRS Key District Office was not followed and the IRS National Office memorandum transmitting an information item contained statements as to the IRS National Office view of either the law or the relevance of the information item. The Joint Committee staff did not find any credible evidence that the IRS National Office attempted to influence IRS Key District Office decisions on whether to initiate examinations of tax-exempt organizations.
  - Certain media reports raised issues relating to statements attributed to an IRS employee concerning the handling of Congressional inquiries relating to tax-exempt organizations. According to the reports, the IRS employee allegedly stated (1) that IRS employees had been or were shredding documents identifying the names of Members of Congress and their staff as the sources of examination requests and (2) suggesting ways to disguise information items received from Members of Congress. The Joint Committee staff reviewed documentation provided by the IRS relating to the IRS employee's statements. According to the documentation, the IRS employee's statements concerning the shredding of documents related to the previous practice in the IRS Key District Offices of destroying information items that did not result in an audit. The employee's statements with respect to the attribution of information items received from Members of Congress related to the concern raised by an IRS Office of Inspection Internal Audit report (discussed in detail below) that recommended identifying a media report as the source of an information item relating to a tax-exempt organization even if a taxpayer or a Member of Congress forwards such media report to the IRS.
  - The Joint Committee staff found no credible evidence that Congressional inquiries had improperly altered the manner in which the IRS handled tax-exempt organization cases.
  - The Joint Committee staff found no credible evidence that information items forwarded to the IRS by the Treasury Department or the White House were given more weight by the IRS than information items received from other sources.

Employee misconduct with respect to tax-exempt organization matters

- The Joint Committee staff found no credible evidence that any IRS employee had improperly altered the outcome of a tax-exempt organization case. The Joint Committee staff found that the IRS had procedures in place to ensure that political appointees, such as the Commissioner of Internal Revenue and the IRS Chief Counsel, did not generally become involved in the resolution of issues relating to specific taxpayers.
- The Joint Committee staff found that allegations of IRS employee misconduct with respect to organizations within the scope of the Joint Committee staff investigation that were referred to the IRS Office of Inspection were thoroughly investigated by IRS

management and the IRS Office of Inspection and disciplinary action, if warranted, was taken.

- The Joint Committee staff found that instances of employee misconduct or other issues relating to organizations within the scope of the Joint Committee staff investigation that were referred to the Treasury Inspector General's office were lost, misplaced, or not investigated by the Inspector General. The Joint Committee staff found no credible evidence that this failure to investigate referrals by the Inspector General's office occurred as a result of a concerted effort to protect high-ranking IRS and Treasury Department officials. Rather, it appeared that these failures to investigate resulted from lack of accountability, recordkeeping failures, and incompetence within the Inspector General's office.
- The Joint Committee staff identified eight instances of alleged IRS employee misconduct relating to organizations within the scope of the Joint Committee staff investigation. With respect to these eight instances, the Joint Committee staff found the following:
  - Two instances related to statements made by IRS employees to representatives of tax-exempt organizations under examination by the IRS. In each instance, the IRS employee's statements were interpreted by the representative of the tax-exempt organization to indicate that there was bias in the handling of the examination by the IRS. The Joint Committee staff found that the IRS employees' statements were ambiguous. In addition, based upon interviews of IRS employees by the Joint Committee staff and based upon records of interviews conducted by the IRS Office of Inspection and the Treasury Inspector General, the Joint Committee staff found that the IRS employees did not intend their statements to mean what the statements had been interpreted to mean by the representatives of the tax-exempt organizations.
  - Three instances related to allegations made by tax-exempt organizations that IRS employees assigned to the tax-exempt organizations' cases were biased, based generally on information the tax-exempt organization had about the political views of the IRS employees. In one instance, the case was transferred to the IRS National Office based on the issues involved and the IRS employee had no further involvement in it. In the other two instances, the IRS either reassigned the case in question to another IRS employee or added IRS employees to the case to ensure that individual IRS employee bias would not occur.
  - One instance related to an allegation that IRS employees had violated the church audit procedures contained in Code section 7611. The Joint Committee found that the contact made by IRS employees was done to educate the relevant church as to the law with respect to impermissible political campaign intervention by organizations described in section 501(c)(3). See the discussion in Part III.B., concerning the Joint Committee staff's findings with respect to the church audit procedures.

- One instance involved allegations of potential misconduct identified by one IRS employee with respect to the actions of the employee's supervisor. Based on the available information and evidence and the statements of the IRS employee and the employee's supervisor, the Joint Committee staff found no credible evidence that the supervisor had acted in a manner intended to influence improperly either the initiation or conduct of examinations of tax-exempt organizations.
- One instance involved an allegation of an improper attempt to obtain information by an employee of the Office of IRS Chief Counsel with respect to the examination of a tax-exempt organization within the scope of the Joint Committee staff investigation. The Joint Committee staff found no credible evidence that the employee had acted in a manner intended to influence improperly the handling of the examination by the IRS.
- Allegations of IRS employee misconduct with respect to the handling of tax-exempt organization cases are not recorded in a single IRS data base and the IRS does not have a comprehensive system in place to identify all such allegations. In order to respond to Joint Committee staff requests with respect to allegations of employee misconduct, the IRS surveyed managers in the IRS National Office and IRS Key District Offices to determine their recollections of any such allegations. This manager survey identified one allegation that was also identified through one of the two relevant IRS databases. However, due to the lack of a comprehensive data base, the Joint Committee staff was unable to evaluate systematically whether all instances of alleged IRS employee misconduct with respect to tax-exempt organizations within the scope of the Joint Committee staff investigation were located.
- The Joint Committee staff found evidence of two nonroutine contacts of IRS employees made by White House and Treasury officials.
  - In the first instance, the Joint Committee staff found evidence of a single nonroutine direct contact in 1997 between White House officials and the IRS in which the White House officials appear to have attempted to obtain taxpayer return information to which they were not entitled under section 6103. Because the tax-exempt organization in question was not an organization described in section 501(c)(3) or (c)(4), the contact was outside of the scope of the Joint Committee investigation and, therefore, was not extensively reviewed. However, limited materials reviewed by Joint Committee staff indicated that the contact related to the status of certain forms filed by members of a tax-exempt organization. It appears that White House officials initially contacted employees in the Treasury Office of Tax Policy and were referred, in apparent violation of Treasury Order 107-05, directly to the IRS. The White House officials then, in violation of written White House policies, contacted directly several IRS employees (none of whom worked in the Exempt Organization Division) and attempted to secure taxpayer return information. The Joint Committee staff found that the IRS employees

involved (1) refused to disclose taxpayer return information protected under section 6103; and (2) promptly referred the contact to the Treasury Inspector General.

- In the second instance, a Treasury Department official was alleged to have made a 1995 inquiry to IRS employees concerning the status of an examination of a tax-exempt organization within the scope of the Joint Committee staff investigation. One of the IRS employees contacted in connection with the inquiry was sufficiently concerned about the nature of the contact that a referral was made to the IRS Office of Inspection. As the matter pertained to a Treasury Department official, the IRS Office of Inspection referred the matter to the then-Treasury Inspector General's office.<sup>2</sup> The Treasury Inspector General did not act upon the referral until it was brought to the Inspector General's attention during the Joint Committee staff investigation during 1997. When asked about the referral by the Joint Committee staff, the Treasury Inspector General's office could not locate it and had no record of any action taken with respect to the referral. Materials received by the Joint Committee staff from the Treasury Inspector General's office in 1999 indicate that the Inspector General received a copy of the referral in July 1997 and assigned an investigator to it. There was no evidence of any other action by the Treasury Inspector General with respect to this referral after September 1997. During 1999, following further Joint Committee staff inquiries with respect to the referral, the Treasury Inspector General for Tax Administration investigated the allegations made with respect to this contact and found that the evidence concerning the nature of the contact made by the Treasury official was inconclusive. However, the Treasury Inspector General for Tax Administration did not find any evidence that the IRS handling of the examination of the tax-exempt organization in question was improper. The Joint Committee staff interviewed all parties involved in this contact and reviewed IRS and Treasury records, including the relevant case file. The Joint Committee staff found no credible evidence that the contact by the Department of Treasury employee influenced the conduct or outcome of the examination.

### **Other investigations**

Prior to and during the Joint Committee staff investigation, the IRS Office of Inspection, the Treasury Inspector General, and the Treasury Inspector General for Tax Administration conducted a number of investigations into the IRS processes relating to tax-exempt organizations generally and into allegations relating to IRS employee handling of certain cases specifically. The Joint Committee staff had access to all information obtained by or generated by these offices in connection with the various investigations.

---

<sup>2</sup> There is conflicting information regarding the timing of the referral by the IRS Office of Inspection to the Treasury Inspector General. IRS Office of Inspection records indicate that the referral was forwarded in 1995; however, the Treasury Inspector General's office had no record of receiving the referral prior to July, 1997.