

INTERNAL REVENUE SERVICE'S METHODS

HEARING
BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
UNITED STATES SENATE
ONE HUNDRED FIFTH CONGRESS
SECOND SESSION

SPECIAL HEARING

Printed for the use of the Committee on Appropriations



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INTERNAL REVENUE SERVICE'S METHODS

TUESDAY, APRIL 14, 1998

U.S. SENATE,
SUBCOMMITTEE ON TREASURY AND
GENERAL GOVERNMENT,
COMMITTEE ON APPROPRIATIONS,
Denver, CO.

The subcommittee met at 9 a.m., University of Denver, Denver, CO, Hon. Ben Nighthorse Campbell (chairman) presiding.
Present: Senator Campbell.

PANEL 1

NONDEPARTMENTAL WITNESSES

STATEMENTS OF:

LINDA SANDERS, LITTLETON, CO
DENNIS MARTY, GRAND JUNCTION, CO
AMY POWERS, LITTLETON, CO
KATHERINE MOREHEAD, AURORA, CO
ALVIN STJERNHOLM, LAKEWOOD, CO
ROBERT LESHER, LAKEWOOD, CO

OPENING REMARKS OF SENATOR CAMPBELL

Senator CAMPBELL. Good morning. The Treasury and General Government Subcommittee will be in session.

First I want to thank the Center for Public Policy here at the university for offering their assistance in setting up this room and providing us a space to do this hearing.

As you know, the Senate Appropriations Subcommittee on Treasury and General Government oversees the budget for the Internal Revenue Service. The IRS has become America's least loved agency, to put it mildly.

Today we will be discussing the Internal Revenue Service's methods.

Every Member of Congress, including me, has received constituent complaints about taxpayer abuse by the IRS. Our own files in our office are filled with so-called horror stories, and some we may hear this morning.

A recent hearing by the Senate Finance Committee provided shocking information from IRS employees themselves about how taxpayers are mistreated. In the midst of all this debate, Congress is now trying to rein in some of those abuses and reform how the IRS is managed.

The House of Representatives recently passed a bill to reform the IRS, and the Senate Finance Committee has just presented their version to the full Senate for consideration next month. So the testimony we will be taking today will become part of that public record on this issue.

The IRS has a huge job. It is responsible for collecting over \$1.5 trillion in taxes. Tax collection is a necessary function, and most Americans understand this. But it does not have to be a necessary evil.

Over 80 percent of American taxpayers voluntarily comply with tax laws—a fact that many people do not realize. It is past time for the IRS to decide to work for the taxpayers, as private industry does.

The IRS can learn a great deal from the private sector. As an example, in the private sector if someone has a problem with a credit card or other type of billed account, they can usually call, sometimes on a 24-hour-a-day basis, and talk to a human being, actually talk to someone who has the authority to try to fix it rather than some automated system with a recording.

Taxpayers are also demanding that they can rely upon information provided by the IRS and not be punished with late fees and penalties if someone else at the IRS disagrees with the advice that they were first given.

Taxpayers are tired of being notified years after they have filed that they have an additional tax obligation, which has by then grown to several times the initial debt because of interest and penalties. Many who would have paid the initial tax had they known are shocked to learn that they owe an enormous debt over and above the tax obligation. Sometimes they simply can't pay it.

In short, taxpayers are demanding that they be treated fairly, and that is exactly what they have every right to expect.

The IRS has a new Commissioner, Mr. Charles Rossotti, and I am pleased that Mr. Rossotti has accepted our invitation to be here with us today. Mr. Rossotti, would you stand just for a moment, over here on the right? Thank you very much for coming. [Applause.]

Mr. Rossotti needs to hear first hand what some of our citizens have been facing in dealing with the representatives of his agency. He has come on board just recently and, in fact, during a very critical period for the IRS, and I certainly compliment you on your willingness to go around the United States and take on this job and listen to the citizens themselves.

Unlike most previous IRS Commissioners, Mr. Rossotti is not a so-called policy wonk or a Washington bureaucrat. He was a successful businessman, and his management experience as the founder and chief executive of a computer consulting company gives him the skills and knowledge to make the necessary culture and technology changes so that the IRS can be effective in its interaction with taxpayers. He knows how to make a payroll. He knows what it is like to deal with myriads of Government mandates and paperwork in trying to comply with the taxes that he in turn had to pay as a private businessman.

Today, on our first panel we will hear from Coloradans who have had problems with the IRS. With us today are individual taxpayers, business taxpayers, and innocent spouses.

On the next panel, the second panel, we'll have two people with different perspectives on problems faced by the IRS and specific recommendations for solving those problems.

Then we will have an opportunity to listen to the Commissioner himself, and I am sure we will all want to hear his plans to make the agency more responsive as well as his observations on some of the stories that he is going to hear.

Our final witness will be Mr. Robert Tobias, the president of the National Treasury Employees Union, and Mr. Tobias represents the IRS employees themselves. So it will be interesting to get his perspective as well.

Some people, of course, just want to eliminate the IRS altogether. We have heard that a number of times. We have received a lot of mail in our office saying that. I think we all recognize that there has to be some way of collecting taxes if you want good highways, if you want schools, if you want a national defense. We have to have a form of collecting taxes.

Today I hope we can discuss the ways to make the IRS a more responsive agency to all of us. We will be hearing some very disheartening stories this morning, but I think if we give Mr. Rossotti the opportunity to try to fix the problems—although he is responsible for the agency now, I would hate to, as they say, shoot the messenger since he just recently came on board in the last half year.

Our first panel this morning will consist of Ms. Linda Sanders of Littleton, Dennis Marty of Grand Junction, Amy Powers of Littleton, Katherine Morehead of Aurora, Dr. Alvin Stjernholm—I hope I have pronounced that right, Doctor—of Lakewood, and Mr. Robert Leshner, also of Lakewood. Thank you all for agreeing to share your concerns.

When we first decided to do this hearing, we contacted a number of people, and, very frankly, some were very reluctant to testify. We had several say they would only testify if they could be behind a screen because they were very clearly worried about some retribution. But I want to give anybody here testifying today an absolute assurance of this committee—and I know I can speak for Mr. Rossotti, too—that that simply will not happen, and we will continue to monitor your activities.

Also, we obviously have a little bit of a time constraint. We have 3 hours. We have tried to divide it up among the people testifying in time for some questions and some dialog, and so we will try and limit, I think, the first panel to about 10 minutes each. So if you have a very long, involved testimony, be assured that all of it will be included in the record. You may wish to abbreviate your comments to about 10 minutes.

With that, we will start in the order that I read your names, if Ms. Linda Sanders would go ahead. Why don't you pull the microphone over pretty close to you, so the people in the back of the room can hear. And thank you for agreeing to be here, Linda.

STATEMENT OF LINDA SANDERS

Ms. SANDERS. Thank you. I hope my voice isn't too squeaky. I am not enjoying being here.

Senator CAMPBELL. Closer.

Ms. SANDERS. My name is Linda Sanders. I have had an experience with the IRS which has demonstrated to me their brutal power. And I wish to ask the Commissioner if his agents should be able to commit perjury and falsify documents in order to collect tax. So far, the IRS has only justified what they did to me by saying, "it is our mission to collect the proper amount of tax * * *."

Now, all of us understand that the IRS must collect tax, but the objection that I have and many Americans have is that the IRS breaks the law in meeting that goal. In my case, breaking the law resulted in my losing over \$150,000 more than the tax that was owed, as well as my home, which took 20 years to save up for, as well as destroying my relationships with my family. It simply wasn't necessary, so why did they do it? And are there any circumstances under which they should be allowed to go unpunished and continue with these practices?

My ex-husband and I owed the IRS \$26,000 because of a capital gain tax imposed upon us because we sold our expensive home and we bought down to pay bills rather than declare bankruptcy. And I am so grateful that this horrible capital gain tax has since been changed.

We couldn't pay the tax, and the IRS put a lien on the house to protect their interest in the property. After about 1 year they began collection procedures and they seized the house with the intent to sell it to access the equity to pay the tax. However, I protested—and I hope I can use that word without being labeled an anti-Government terrorist. I protested to my Congressman and said that if IRS sold this house and forced us to buy down again, we would incur another capital gain tax and then we would have to lose the next house. And it seemed insane to me that I had to be homeless just because I made the choice first to be financially responsible and I lowered my standard of living by buying down instead of going bankrupt. So my protests to my Congressman resulted in the IRS releasing that seizure in 1993.

I would like to show that because it is significant to the rest of what I have to say. If we could just cut the lights right in front of the screen?

Senator CAMPBELL. Maybe just right in front of the screen we can turn this down a little bit?

[The information follows:]

Form 2433 (Rev. Dec. 1982)

NOTICE OF SEIZURE

Name Harvey F. & Linda H. Barge
Address 11081 W. Rowland Dr.
 Littleton, CO 80127

Serial Number D93-0062
Estimated expenses of seizure and sale \$4,000.00

Under the authority in section 6331 of the Internal Revenue Code, and by virtue of a levy from the District Director of Internal Revenue of the district shown below, I have seized the property below for nonpayment of past due internal revenue taxes.

Due from Harvey F. & Linda H. Barge 11081 W. Rowland Dr. Littleton, CO 80127	Amount \$ 27,225.68	Internal Revenue District (City and State) Denver, CO
--	-------------------------------	---

Description of property (Enter inventory value opposite each item of seized property described)

Let 11, Block 4, The Meadows Filing No. 5, Amendment No. 1, County of Jefferson, State of Colorado
 Single family dwelling.
 also known as: 11081 W. Rowland Dr.

\$ 185,000.00

Total inventory value \$185,000.00

Property located or stored at (Show address)	Disposition of Property	Amount
	<input type="checkbox"/> Redeemed prior to sale	\$ ✓
	Released prior to sale	
	<input type="checkbox"/> Payment agreement (amount received at time of release)	\$
	<input type="checkbox"/> U.S. received its interest	\$
	<input type="checkbox"/> No interest	\$
	<input type="checkbox"/> Future collection potential	\$
	<input checked="" type="checkbox"/> Other (Administrative decision)	\$ ✓
	Sale	
	<input type="checkbox"/> Public auction	\$
	<input type="checkbox"/> Sealed bid	\$
	<input type="checkbox"/> Declared purchased for U.S.	\$
	<input type="checkbox"/> Disposition unnecessary (cash applied directly to account)	\$

Signature of Revenue Officer making seizure _____ **Address** 1075 S. Yukon, Lakewood, CO 80226 **Date** 8-30-93

Signature of accompanying employee *Keith Williams* **Address** 1075 S. Yukon, Lakewood, CO 80226 **Date** 8-30-93

Ms. SANDERS. If you can see this, it is a 1993 seizure on my property, but what happened is when I asked my Congressman to help me because of the catch-22 I found myself in, they released it, and here is the evidence: Disposition of Property. It was released prior to sale for an administrative decision. And it is important that you notice that this is the seizure that was released.

A year later, the IRS began levying my ex-husband's paycheck because they had to collect the tax. Here is the levy on wages. It was for the year of the tax we are talking about, and it was against my husband, and the date was in February 1994. So in 1994, they did begin collecting the tax.

[The information follows:]

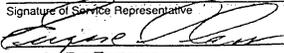
Kind of Tax	Tax Period Ended	Unpaid Balance of Assessment	Statutory Additions	Total
1040	12/31/90	17,648.25	3,866.47	21,514.72
1040	12/31/91	6,054.72	1,412.77	7,467.49
Total amount due ▶				28,982.21

Interest and late-payment penalty have been figured to February 25, 1994.

This is your copy of a Notice of Levy we have sent to collect the amount you owe. If you have any questions, please call or write us. If you write to us, please include your telephone number and the best time for us to call.

As required by the Internal Revenue Code, notice and demand for the above amount were made on the taxpayer, who neglected or refused to pay. The amount is unpaid and still due. Chapter 64 of the Internal Revenue Code provides a lien for the tax and statutory additions. Items levied on to pay this are: (1) all wages and salary for personal services of this taxpayer that you now possess or for which you become obligated, from the date you receive this notice of levy until a release of levy is issued, and (2) other income belonging to this taxpayer that you now possess or for which you are obligated. These wages, salary, and other income are levied on only to the extent that they are not exempt from levy under Code section 6334 as shown in the instructions. Demand is made on you to pay the total amount due. Do not offset funds the taxpayer owes you without contacting the IRS office shown above by phone for instructions.

Please see the back of Part 5 for instructions.

Signature of Service Representative 	Title Revenue Officer
--	--------------------------

Part 2 - For Taxpayer Form 668-W (Rev. 2-93)

Ms. SANDERS. Then, without any warning whatsoever, about 1 month after the wage levy, the IRS put a for sale sign on my front door, and they advertised my house for sale with the date set for 2 weeks hence. Because I had worked with a tax attorney who specialized in taxpayer rights on levy and seizure, I knew the IRS was violating the law because they weren't giving me the warning notices I knew I was allowed before sale. The law provides, first, for a 10-day warning under section 6331, and then a second warning under section 6331(d). Section (a) is 10 days, section (d) is 30 days, so altogether the taxpayer has 40 days to get a loan or sell the house at a profit and pay the tax.

Because they sold my house without complying with the law and because I knew it from working with a tax attorney, I refused to redeem from that sale. I refused because it would ratify what they had done and it would waive my right to object later. I wanted the sale voided, and I wanted the IRS to back up and follow the law. That way I wouldn't have to pay all the extra charges and penalties that they add on when they sell a tax lien, and in my case that came to an extra \$6,000.

So I waited for the inevitable court hearing which would come after the 6-month redemption period. And during those 6 months, I prepared. I intended to show the court that the sale was void because the IRS hadn't given me time to get a loan, pursuant to the law that gives me the warning notices. My evidence here shows that the IRS released the 1993 seizure, and I rightfully expected that any subsequent seizure would have to be preceded with the 40-day noticing requirements again because the law states that subsequent seizures have to follow the same procedures—that is section 6331(c)—especially since my ex-husband's wages were being levied for the tax. But instead, depriving me of time to get a loan deprived me of the chance to pay just the lien. And, instead, they got 20 years of my life savings, and they left me homeless, and I am still homeless today.

So during the 6-month period after the sale, I acquired some of the sale records which the IRS is required to make under section 6340, and these records prove that the house was sold under a second seizure for which no seizure notice had been given. And while documents had been done under the new number, the IRS never gave me the 40-day notices. Instead, the IRS altered the old seizure documents, which were released, to make it appear as though all the steps had been followed for the second seizure.

And let me show you that.

[The information follows:]

OMNIBANK-PARKER ROAD
The gold standard in banking
4090 SOUTH PARKER ROAD 690-3888
AURORA, COLORADO 80014

CASHIER'S CHECK

No. 37428

82-414/1070
March 28, 1994

Pay to the order of: [Redacted]

PAY TO THE ORDER OF EXACTLY \$64,000.00

PAY TO THE ORDER OF

***** Sixty-four thousand dollars and no cents *****

SN 3500037428 Br 007 -Sp DAN
7613 if over \$64,000.00

Pay to the order of the payee's name only.

Joseph M. Sloan

⑆037428⑆ ⑆107004145⑆0000116⑆

Department of the Treasury
Internal Revenue Service
Form 2433 (Rev. Dec. 1982)

Notice of Seizure

Serial number
94-0088D



Name and Address

Harvey F. & Linda H. Burge
11081 W. Rowland Dr.
Littleton, CO 80127

4,000.00

Due from	Harvey F. & Linda H. Burge 11081 W. Rowland Dr. Littleton, CO 80127	Amount RECEIVED WITH REMITTANCE \$ 27,225.68	Internal Revenue District (City and State) Denver, CO
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84 MAR 31 1994

DIST. DIRECTOR INT. REV.

DENVER
TELLER # 8

\$ 79,000.00

3-28-94
Date

RECEIVED
IRS - SPS

Proceeds from sale of seized property
(to be deposited in the Deposit Fund Account)

No sale

84-656-091-15000

Part 8A — To District Office Teller

Form 2433 (Rev. 12-82)

Internal Revenue Service
Form 2433 (Rev. 12-82)



NOTICE OF SEIZURE

Name and Address
Harvey F. & Linda H. Burge
11081 W. Rowland Dr.
Littleton, CO 80127

D93-0062

Estimated expenses of seizure and sale
\$ 4,000.00

Under the authority in section 6331 of the Internal Revenue Code, and by virtue of a levy from the District Director of Internal Revenue of the district shown below, I have seized the property below for nonpayment of past due internal revenue taxes.

Due from Harvey F. & Linda H. Burge 11081 W. Rowland Dr. Littleton, CO 80127	Amount \$ 27,225.68	Internal Revenue District (City and State) Denver, CO
---	------------------------	---

Description of property (Enter inventory value opposite each item of seized property described) Lot 11, Block 4, The Meadows Filing No. 5, Amendment No. 1, County of Jefferson, State of Colorado Single family dwelling. also known as: 11081 W. Rowland Dr.	\$ 185,000.00
Total inventory value	\$185,000.00

Property located or stored at (Show address)	Disposition of Property	Amount
	<input type="checkbox"/> Redeemed prior to sale	\$ ✓
	Released prior to sale	
	<input type="checkbox"/> Payment agreement (amount received at time of release)	\$
	<input type="checkbox"/> U.S. received its interest	\$
	<input type="checkbox"/> No interest	
	<input type="checkbox"/> Future collection potential	
	<input type="checkbox"/> Other	\$
	Sale	
	<input type="checkbox"/> Public auction	\$
	<input type="checkbox"/> Sealed bid	\$
	<input type="checkbox"/> Declared purchased for U.S.	\$
	<input type="checkbox"/> Disposition unnecessary (cash applied directly to account)	
Signature of Revenue Officer making seizure Gene Cass	Address 1075 S. Yukon, Lakewood, CO 80226	Date 8-30-93
Signature of accompanying employee <i>[Signature]</i>	Address 1075 S. Yukon, Lakewood, CO 80226	Date 8-30-93

Ms. SANDERS. Here you can see the new 1994 number written over the 1993 number. And here let me show you—here is the 1993 seizure that was released, and it lines up just perfectly to show you what is written underneath the 1994 number.

The IRS still does not deny that no notice was given for the new 1994 seizure. They simply say that no notice was needed because the second time it was just a very, very long seizure from the first 1993 one, and that they have to change numbers because IRS changes everyone's seizure numbers every October to match the fiscal year. And I would like to show you the sworn testimony of the agent explaining that they have to change seizure numbers every fiscal October on everybody.

[The information follows:]

TESTIMONY OF IRS AGENT

* * * at the time this was the number assigned to this seizure, for control purposes, for accounting.

Question. So, why did the number change?

Answer. After we went into 1994—I have explained that—its accounting purpose is so then we no longer can pay out seizure expenses out of 1993 budgets. So, we had to reissue a 1994 number for it, because of a fiscal tax year.

Question. When did the seizure happen that occurred?

Answer. 1993.

Question. All right. So, we have the date of this document as April 7, 1993?

* * * number. A seizure number is nothing other than a way that we internally track seizure expense so we can make sure that any advertisement, any expense that we have, if we have to change locks, if we do whatever we have to do in some certain situations we have to, if it's real property, we have to have grass mowed, whatever we have to do has to be paid out by our accounting department under that seizure number.

So, the fact that there's a seizure number here, and then later there's another seizure number, this occurred because it went beyond our fiscal year, and this is a 1993 seizure expense number, when it went into 1994, fiscal year 1994, we had to renumber that.

Ms. SANDERS. Here the agent says, "Let me explain a seizure number. A seizure number is nothing other than a way that we internally track seizure expense so we can make sure that any advertisement"—I am sorry. I am reading the—she did several pages, and I have brought * * * she is asked how come the number changed. She says, "At the time this [was the] number assigned to this seizure, for control purposes [and it was] for accounting."

"After we went into 1994—I have explained that—its accounting purpose so then we no longer can pay out seizure expenses out of 1993 budgets. So, we had to reissue a 1994 number for it, because of a fiscal tax year." She is saying that right here.

At the bottom, she says, "So, the fact that there's a second seizure number here * * * because it went beyond the fiscal year, and [it] is a 1993 seizure expense number, when it went into 1994, fiscal year 1994, we had to renumber that."

Well, I called IRS data headquarters in Maryland to find out if this is true, if all the seizure numbers have to be changed every fiscal October. And I have a tape recording of that conversation if anyone would like to hear it. And, of course, the clerk laughed and said that would be a recordkeeping nightmare, there is no way they can change fiscal numbers to match the fiscal year. She said that once a seizure number is assigned, it stays there.

But, additionally, I decided to find out from the Government Accounting Office whether or not the seizure budget for 1993 went dry and that perhaps they might have had to change the numbers, and the Government Accounting Office first told me that, no, the 1993 budget was to last all the way until 1997, it did not run dry, and he said seizure budgets are not used for residential seizures. And as evidence of that, I went to the title company that prepared the title for my seizure, and it was paid by Visa.

[The information follows:]



First American Heritage Title Company

6850 E. EVANS AVENUE
DENVER, COLORADO 80224
(303) 691-3333

- INTERNAL REVENUE SERVICE
- 1075 YUKON ST.
- LAKEWOOD, CO 80226

ESCROW NO.:
TITLE NO.: JG01677
DATE: 3-19-93

OFFICE NO.: 020

CLIENT NO.: NEW

SALESPERSON NO.: NEW
CLOSER NAME:

AMOUNT ENCLOSED
\$ 95.00
PAID BY CHECK NO.
VISA

PLEASE DETACH AND RETURN THIS PORTION TO INSURE PROPER CREDIT.

CLIENT REFERENCE: BURGE
PROPERTY ADDRESS: 11081 W. ROWLAND DRIVE

OWNERS POLICY
MORTGAGE POLICY
MORTGAGE POLICY
MTG. GUARANTEE/TITLE GUARANTEE

\$95.00
TOTAL POLICIES \$95.00
FORM 100

ENDORSEMENTS 100.29
100.30
115
140.1
OTHER

STATE OF COLORADO) ss.
County of Jefferson)

I, Mary Lou Keating, a Notary Public in and for said State, do certify that on January 12, 1998, I carefully compared with the original the attached facsimile of Invoice No. 000040 and the facsimile now held in my possession. They are complete, full, true, and exact facsimiles of the document they purport to reproduce.

Witness my Hand and Official Seal.
000002
My Commission expires July 30, 1999.

Mary Lou Keating
Notary Public

TAX CERTIFICATES

RECORDINGS DEEDS
TRUST DEEDS
ASSIGNMENTS
RELEASES
OTHER
OTHER

TOTAL ENDORSEMENTS
TOTAL RECORDINGS
FORECLOSURE GUARANTY
OTHER
OTHER
OTHER
TOTAL OTHER

PLAINTIFFS EXHIBIT
12

TOTAL \$95.00

Ms. SANDERS. So these lies caused the State court to uphold the sale as proper, and I was evicted from my home. The court determined that I must have gotten all the notices and that I must be the one lying. But all I got was the notice of sale the day that it went into the paper, and I couldn't possibly secure financing that quickly. It was a malicious act to punish me for daring to demand that the IRS follow the law.

Unless and until the IRS Commissioner himself admits that the agency broke the law here and committed perjury, no court will contradict the IRS. Perhaps judges can't even survive audits. The IRS is a self-monitoring agency, like the police, and if their internal affairs department does not admit the problem, the taxpayer has no remedy. The IRS is so powerful that even the courts are intimidated by them and refuse to question their integrity.

So if the Commissioner doesn't accept the integrity and admit this was perjury and document falsification, there is no remedy for American taxpayers like me.

So, please, Mr. Commissioner, would you please give me the only remedy that will make me whole again and admit that the IRS does not change seizure numbers every October? And please be an example of the honesty and integrity that is necessary in our Government. Because even the President is now allowed to authorize perjury, so I don't see how any district director could do so.

I hope that these hearings are not just a "warm fuzzy" for the public, and I hope something will be done about this.

Thank you, Senator Campbell. [Applause.]

PREPARED STATEMENT

Senator CAMPBELL. Thank you, Ms. Sanders. We have your complete statement and it will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF LINDA SANDERS

My name is now Linda Sanders—I have had an "experience with the IRS" which has demonstrated to me their brutal power. I wish to ask the Commissioner if his agents should commit perjury and falsify documents in order to collect tax from me. So far, they have justified what they did to me by saying, "it is our mission to collect the proper amount of tax * * *".

Now, we all understand that the IRS must collect tax—but the objection that many Americans have—is that the IRS breaks the law in meeting that goal. In MY case—breaking the law resulted in my losing over \$150,000 MORE than the tax owed—as well as my home which took 20 years of life to save up for—as well as destroying my relationships with my family. IT SIMPLY WASN'T NECESSARY—SO WHY DID THEY DO IT? AND ARE THERE ANY CIRCUMSTANCES UNDER WHICH THEY SHOULD BE ALLOWED TO GO UNPUNISHED AND CONTINUE THESE PRACTICES?

My ex-husband and I owed the IRS \$26,000 because of a capital gain tax imposed upon us because we sold our expensive home and "bought down". (I am so grateful that this horrible capital gain tax has since been changed). We couldn't pay the tax—and the IRS put a lien on the property. After about a year they began collection procedures and seized the house with the intent to sell it to access the equity in it to pay the tax. However—I protested to my Congressman and said that if the IRS sold the house—and forced us to "buy down" again—we would incur ANOTHER capital gain tax and then lose the NEXT house. It seemed insane to me that I had to be homeless just because I made the choice to be financially responsible—and lower my standard of living by buying down instead of going bankrupt. My protests to my Congressman resulted in the IRS releasing the seizure in 1993.

Then, a year later, the IRS began levying my ex-husband's paycheck for the outstanding tax.

Then, WITHOUT ANY WARNING WHATSOEVER—a month later, the IRS put a "for sale" sign on my door and advertised my house for sale with the date set for 2 weeks hence. Because I'd worked for a tax attorney who specialized in taxpayer rights on levy and seizure, I KNEW the IRS was violating the law that gives the taxpayer NOTICE that they are about to lose their home. The law provides for: (first) a 10 day warning under 26 USC 6331(a) and then a second warning for 30 days under 26 USC 6331(d). Altogether the taxpayer has 40 days to get a loan or sell the house and pay the tax—they only gave me 14 days—not enough time to se-

cure financing. They wanted me homeless to punish me for the work I had done with the tax attorney—protecting taxpayer rights.

Because they had sold my house without complying with the law—AND I KNEW IT BECAUSE OF WORKING WITH THE ATTORNEY—I refused to redeem from the sale—I refused because it would ratify what they had done—and waive my right to object. I wanted the sale voided and I wanted the IRS to back up and follow the law. That way I wouldn't have to pay all the extra charges and penalties they add on when they sell tax liens, which, in my case came to about \$6,000.

I waited for the inevitable court hearing which would come after the 6 month redemption period. During those 6 months, I prepared. I intended to show the court that the sale was void because the IRS hadn't given me time to get a loan to pay the tax. My evidence here shows that the IRS released the 1993 seizure of the house and so I rightfully expected that any subsequent seizure would have to be preceded with the 40 day noticing requirements again under 26 USC 6331(c). Especially since my ex-husband's wages were levied for the tax already. Depriving me of the time to get a loan deprived me of the chance to pay just the lien. Instead, they ALSO got 20 years of life savings and left me homeless.

During the 6 month period after the sale, I acquired some of the sale records which the IRS made as required by 26 USC 6340. The record showed that the house was sold under a SECOND seizure for which no SECOND notice had been given. The new seizure had been done under 94-0088D but I did not get any 40-day seizure notices. Instead, the IRS altered the old seizure document which were released to make it appear as if all the steps had been followed for the second seizure.

The IRS still does not deny that no notice was given for the new 1994 seizure number. They simply explain away the two seizure numbers (for which no notice was given for the second) by saying that IRS changes EVERYONE'S SEIZURE NUMBERS each October—to MATCH THE FISCAL YEAR. I spoke with data Headquarters and the clerk said this isn't true.

Additionally, another IRS agent said that the IRS HAS to change all the numbers every fiscal October because the seizure "budget" runs dry and they have to pay bills out of a new budget.

However, the bill for the Title Company work says it was paid by VISA, not a check from a budget.

These lies caused the state court that evicted me from the home, to uphold the sale as "proper." UNLESS and UNTIL the IRS Commissioner, himself, admits that the agency broke the law, no court will NOT contradict the IRS's word. The IRS is a self monitoring agency—like the police—and if their internal affairs department does not rectify the problem—the taxpayer has NO REMEDY.

Mr. Commissioner—DO YOU CONDONE THESE LIES? Will you please give me the only remedy that can "make me whole" again, by admitting that the IRS does NOT change seizure numbers every fiscal October? Or please tell us under what circumstances you permit the IRS to lie and falsify documents in order to take property from American taxpayers?

Thank you.

REMEDY FOR ABUSES

Senator CAMPBELL. Linda, there is a remedy, and you are part of it. That is why you are here. These abuses, some have gone on for years and years and years, and it is not the kind of thing that can get turned around overnight, but there are many people that are very concerned about you.

I might also mention, too, that this isn't the U.S. Senate, but it is a Senate hearing, and in that respect, I would ask the audience if they would respect the decorum of the Senate. I don't mind, you know, a few light comments and so on, but we have done a few hearings in the last few weeks where we have had protesting in the committee room and, you know, screaming and singing of the national anthem and all these other things, and we want to avoid that. You have a first amendment right, obviously, as anybody does, but it could really be disruptive if it gets out of hand.

With that, I would like Dennis Marty to go ahead, please. You might want to pull that microphone closer.

STATEMENT OF DENNIS MARTY

Mr. MARTY. Good morning. My name is Dennis Marty. My wife and I live in Grand Junction, CO, which is about 250 miles west of here. I am currently under a disability retirement from the U.S. Postal Service. I have worked as a teacher and coach, as a Colorado State highway patrolman, as a data analyst, and chemical sampling coordinator, and as a mail carrier. The chemical sampling coordinator position required that I have a Q level, or top secret, security clearance. My wife has taught elementary school in Grand Junction for the past 20 years. I have a bachelor's degree in physics and math, a master's degree in secondary education, and a Ph.D. in environmental engineering.

I could spend all of my time talking about being disabled and my tax audit where the auditor extended my audit into multiple years. Instead, I will spend the majority of the time talking about two specific items involved in this audit.

The sequence of events leading to our current predicament with the IRS started in February 1997. We received a letter from the Colorado Department of Revenue dated February 5, stating that based on information they received from the IRS, we had understated my unemployment benefits for 1994 and we owed additional tax, interest, and penalties. We paid the amount requested on March 17 because at that time we could not find the documents to prove that the claim was wrong. We returned the letter with the payment and apparently did not keep a copy of that letter.

We received an audit notice from the IRS dated March 21. The audit was set for May 8. The documents requested were our tax returns for 1993, 1994, and 1995, income documentation, farm expenses, and my wife's miscellaneous employment expenses.

During the audit meeting on May 8, one of the initial claims made by the auditor was that I had understated my 1994 unemployment benefits from the State of Colorado in the amount of \$522. Due to an injury suffered in a fall at work, I was unable to remain seated for the length of time required to complete the audit that day. This is how the auditor found out that I had become disabled and that I had been on leave without pay for the previous 8 months. The auditor said that he would complete the audit and contact us.

Early on Saturday morning, May 10, the auditor contacted me by phone. During this phone call, he repeatedly accused me of understating unemployment benefits from 1994 and overstating mortgage interest in 1995 by \$4,448. He informed me that because of these changes, he was expanding the audit to include the years 1990 through 1996. The auditor was belligerent during the phone call. It seemed to me that by making these accusations the auditor was implying that we were attempting to defraud the Government.

The phone call was followed by a written information document request form detailing the additional material that the auditor wanted. On May 17, we supplied some of the additional documents he requested. We did not supply the tax returns for the years of 1990, 1991, and 1992. Later we found out that he could only go back 3 years, making those years off limits, anyway.

The auditor's preliminary report had us owing in excess of \$28,000 in additional taxes, interest, and penalties. This included the two errors that we were accused of making. The auditor also had disallowed every penny of our medical claims, as well as the majority of the rest of our itemized deductions.

This appears to be an abuse of the burden-of-proof concept. The final report calls for \$24,397.20, and both errors were excluded. But he still disallowed the majority of the itemized deductions.

The facts of our case are as follows: The \$522 understated unemployment benefits was actually a State tax refund. This amount was correctly claimed on line 10 of the 1994 tax return. The auditor did not include the 1099 miscellaneous that he claimed that he used to make his accusations when he supplied his notes to me under my Freedom of Information Act request. I sent a second request for these specific notes, and I have not received any additional documents.

I have not shown the auditor this documentation that I had relating to this particular problem, but it was still removed from the final report. I was able to document the \$4,448 overstated mortgage interest with a form the auditor said he had not received. In 1995, we refinanced our property and received two 1098 forms reporting mortgage interest. The auditor did not have one of these two documents when he accused us of this error.

The auditor claimed that the IRS does not give information to State revenue departments until after an audit is closed. This was in response to my request that he send a letter to the Colorado Department of Revenue stating that the information supplied to them was in error.

Despite several requests under the Freedom of Information Act, the Colorado Department of Revenue has been unable to provide me with a copy of their letter dated February 5, 1997.

In conclusion, I have several questions that I feel apply to our audit.

No. 1, after watching the testimony given during the Senate Finance Committee's hearing on the IRS, I have to wonder if my disability and leave without pay status contributed to the vigor with which the auditor pursued this case.

No. 2, why didn't the auditor have the second 1098 mortgage interest form? Was it the bank's error or an internal IRS error? Since the financial institution was not penalized, I can only assume that it was an IRS error.

Where is the 1099 miscellaneous that the auditor claimed was for an additional \$522 unemployment benefit? I contacted the Colorado Department of Labor and Employment and had them check their archives, and they sent me documentation that I had claimed the correct amount on my 1994 return. So there would be no 1099 miscellaneous anywhere.

Why can't I get a copy of the February 1997 letter from the Colorado Department of Revenue which clearly stated their information came from the IRS?

I have testified in court as an expert witness. If I were testifying as an expert witness and made mistakes similar to the two that this auditor made, the jury would probably be instructed to disregard my testimony.

Why are the rules of evidence different for the IRS than for other law enforcement agencies? And why can the IRS expand an audit when that expansion has been initiated because of erroneous data?

Finally, due to my disability, lengthy leave without pay status from the Postal Service, and my low rate of income from the Federal Employees Disability Retirement, we are not able to pay the \$24,000 that the IRS says we still owe unless we sell our property. Even that might not be enough money to pay the IRS. Our audit is currently in the appeals process and is ongoing.

I would like to thank you for the opportunity to present this testimony.

Senator CAMPBELL. Thank you.

Before we go on to Ms. Powers, while it is fresh in my mind, just let me ask you a couple of questions. When you had your conversation with the auditor, was that taped by the auditor?

Mr. MARTY. He did not tell me that it was.

Senator CAMPBELL. Well, it would have been illegal if he hadn't, if he hadn't shown the tape recorder. But when you said he was abusive in nature, was that done in writing or just over the phone?

Mr. MARTY. This was over the phone on that Saturday morning.

Senator CAMPBELL. And under the Freedom of Information Act, you didn't ask for any documentation that he might have taped you or put something in writing that you didn't receive?

Mr. MARTY. What I requested was specifically his notes relating to how he made that claim of understating the unemployment benefit.

Senator CAMPBELL. And you never got that?

Mr. MARTY. He never sent it.

Senator CAMPBELL. Did you contact our office or Senator Allard's office to try to get it?

Mr. MARTY. I have not as of this time.

Senator CAMPBELL. Would you do that?

Mr. MARTY. OK.

Senator CAMPBELL. If you would talk to Ricardo afterward, or sometime when you can, we will try and expedite that if we can get it. Sometimes we can't, but hopefully we can.

Mr. MARTY. Right.

Senator CAMPBELL. With that we will go on to Ms. Powers, please?

STATEMENT OF AMY POWERS

Ms. POWERS. Good morning. Thank you, Senator Campbell, for the opportunity to testify today as an innocent spouse, and thank you, Mr. Commissioner, for coming to Denver for this hearing. Also, I would like your personal assurance, Mr. Commissioner, that my participation today will in no way adversely affect my current negotiating situation with the Internal Revenue Service.

Before I begin, Mr. Rossotti, I would like you to put aside your title of IRS Commissioner and, Senator, I would like you to put aside your title as well, and listen to this story simply as a taxpayer.

Let's assume you, Mr. Rossotti, were married 12 years ago. You met your wife while still in college, and she had a highly successful job. You were just starting out in the business world. Unfortu-

nately, you were divorced a year later and went your separate ways, but not before signing a joint tax return. The majority of income reported on that return was earned by your wife prior to your marriage. You worked part-time for minimum wage and had the necessary taxes deducted from your paycheck.

You were only married for 5 months that year, and by August of the next year, your wife no longer wanted the responsibility of being married and asked to be separated. You relocated to Georgia in 1987. Five years ago, you were remarried, but 2 weeks prior to your wedding day, you received a letter from the IRS stating that you owed in excess of \$30,000 for that joint return signed in 1986.

Mr. Rossotti, Senator Campbell, the only difference in this story and my own personal experience is I have turned the tables on you. This is my story, and as one taxpayer to another, there is something very wrong here.

I am currently at the stage of an offer in compromise with the IRS. I have offered to pay the original assessed amount of \$9,000, but that was flatly rejected. This process of offer in compromise has taken nearly 2 years to negotiate.

At almost every turn, I have hit a wall in terms of requesting information or filing information. It appears to me that the right hand doesn't know what the left hand is doing. I have noticed that in requesting certain information, letters are signed by one person, but questions should be directed to another. This slows the process.

An agent in Idaho returned my original offer in compromise because it was submitted on a photocopied form rather than a carbon-copy original. This slows the process.

Agents have cited internal rules to be applied externally. Again, with respect to my offer in compromise, an agent recently stated, and I quote, "Colorado statutes work to inhibit acceptance of offers from one party to a joint liability." In essence, the Colorado statute should not be binding on the IRS. However, the IRS district counsel's office has established an internal rule which requires collection officers to treat the statute as binding regardless of the State of residency of the spouse.

Since when does a State law override a Federal law? And if that is the case, wouldn't Georgia law prevail and uphold my divorce decree, which is a legal and binding document stating that my ex-husband would be responsible for any and all debt, be it taxes or otherwise?

Mr. Rossotti, the rules have been made up along the way, and the game continues to be played out at my expense. Meanwhile, interest and penalties continue to rise. Even today, as I testify before you, interest and penalties creep upward. Is this right, as one taxpayer to another? It would seem to me that since I have been forced into this situation by your agency, the least you could do is freeze interest and penalties while your agency takes its time—2 years—to evaluate my offer.

I have received letters from your agency stating to pay up or we will garnish wages, take your 401(k) and profit sharing. Additionally, you believe my husband should be held liable and his income used to help satisfy the debt. As a lieutenant commander in the U.S. Naval Reserves, a Federal Government employee, this angers him more than anything.

Recently in the news there have been countless stories shared by innocent spouses all over the country. Their stories are not much different than mine. And as I watched "Dateline" last night, I was sickened by the inefficiencies and lack of compassion displayed by your agency.

There are two things that bother me about my situation and the other innocent spouses, and they should bother you, too: First, it is our right as citizens of this country to work, pursue education, and raise a family. Second, it is our right as citizens of this country to succeed in these things and pursue the American dream if we so choose. Excuse me.

These are my rights, and I am being punished for succeeding.

Your agency today demands \$45,000 and believes that I should be able to pay it because I am young, have a college degree, and have a very successful career. I am proud of these things and never in a million years would have dreamed that they would be used against me. Furthermore, this situation has brought on numerous tax liens filed against me, while my ex-husband deliberately moved from location to location. My employer was notified to garnish my wages. My credit is, as you can imagine, not good. This has prohibited me and my spouse from purchasing a home and forces my spouse to carry the burden of most of our debt.

Additionally, as with many other spouses, I am sure, this situation has caused undue stress on my relationship with my husband and my family.

As your agency pursues innocent spouses, you are simultaneously crippling families and family structures by forcing spouses to seek multiple jobs to pay off debt. You are affecting the care and education of our children by forcing us to seek other, less expensive day-care options or schools. And you are affecting our minds.

We cannot simply shake off the IRS and just walk away. This is not the American dream. Doesn't this bother you, as one taxpayer to another?

I have been specifically targeted, harassed, and threatened simply because I am an easy target. Since my divorce in 1988, I have dutifully filed returns in the States of Georgia and Colorado. Here is a question for you: If I am to be held jointly liable for the tax debt, why then had I never received a notice regarding the debt until nearly 6 years later? That letter, dated November 3, 1992, stated, and I quote, "Our records show that we have previously sent you notices, but we have not yet received full payment. This is final notice."

Please, Mr. Commissioner, with all due respect, your agency owes me the common courtesy of sending me the same correspondence allegedly sent to my ex-husband. I have yet to receive anything.

Instead, your agency waited almost until the statute of limitations was to expire, nearly 6 years, to contact me and inform me that I owed \$34,869.35. The original assessed tax was only \$9,000. Had I been informed of this delinquent debt, I would have made sure that it was taken care of at that time. There are two reasons why I never paid anything. First, I was unaware that the amount was outstanding. And, second, I was under the impression that my

court-filed divorce decree was a legal and binding document created to protect me from this exact situation.

Furthermore, my attorneys contacted my ex-husband directly in February 1993, and he agreed that it was his liability and not mine.

Over the past 10 years, interest and penalties have soared to over \$37,000. These moneys are inflated assessments of time wasted by your agency—time with which there was plenty of time to inform me and the thousands of other innocent spouses of these so-called debts. Instead, it appears your agency has allowed these debts to increase to such amounts that it makes it ridiculous and impossible for anyone to pay.

Furthermore, we are presumed guilty immediately. It seems to me the burden of proof should lie with the Internal Revenue Service. We at least give that common courtesy of innocent until proven guilty to other taxpayers.

In closing, I would like to add that your agency has contacted me on several occasions asking for my assistance in locating my ex-husband. I provided phone numbers and addresses of family, including his parents. This effort has been to no avail. Ironically, sometime in 1990 or 1991, my ex-husband was employed by the Government, having joined the U.S. Navy Seals. He was right in the palm of your hand and was apparently given special permission by the Government to waive payment of the tax debt until he was out of the service. According to his mother, the Navy was very interested in keeping him. He was bright and the perfect specimen for the Navy Seals. Subsequently, he left the Navy early. He quit.

Furthermore, in a letter dated February 1993, an IRS agent stated that Mr. Hammond, my ex-husband, had contacted IRS Agent Mr. Gonzales to arrange a payment agreement and was advised by Mr. Gonzales that he lived in an area serviced by south Los Angeles office and that he would have to wait to be contacted by the south Los Angeles office before making payment arrangements.

This is simply outrageous. Again, right within your grasp, but he was told to hold off making payment arrangements until another district agent contacted him.

If the tables were turned, as in the story I mentioned earlier, Mr. Rossotti, you would be testifying today, struggling to protect your basic rights. So, instead, I testify before you and ask that you call off your agency. I would like my case dismissed. I would like to be absolved of any tax debt related to 1986, which is the year in question.

Again, as I think back on the “Dateline” story last night, it is disgusting what is happening to innocent spouses across the country. The fact that your agency has the power to treat one person the way they did and are continuing to do is unforgivable and criminal.

It is estimated that over 50,000 individuals have been forced into similar situations, and this is wrong. How many more people must testify before this problem is resolved? Isn't it already painfully obvious that the rules must be changed now?

Mr. Rossotti, I respectfully ask your assistance in making some long overdue changes in your agency and ask for your support for the innocent spouses around the country, as well as the other taxpayers.

Thank you.

Senator CAMPBELL. Ms. Powers, first, it is not his agency. It is our agency. That is why we are here, and that is why we are going to make some changes.

Let me just ask, you are a schoolteacher, as I understand it?

Ms. POWERS. No; I am sorry. I am a recruiter for a consulting company.

Senator CAMPBELL. Your taxes went, because of the 7 percent compounded daily, from roughly \$9,000 to four times that much now.

Ms. POWERS. To \$45,000.

Senator CAMPBELL. And at your present salary, do you think you could ever get it paid off? Is it compounding faster than your ability to even pay it?

Ms. POWERS. Yes, sir.

Senator CAMPBELL. Well, I want you to know, you mentioned that if we Senators or he, the Commissioner, ever had experiences like that as private citizens, we would understand better. Believe me, I have. I wasn't born in the Senate. Let me tell you, I have. Years ago, about 1½ or 2 years after we were married in—oh, it must have been about 1966 or so, we had our taxes filled out by a professional tax person, and he made a terrible mistake. And about 1 year later, I got a bill from them for, as I remember, around \$24,000, and I was broke, had no money, just trying to start a business, didn't have any money. And I was angry and disgusted. I just went down and told them, Put me in jail, I'm not going to pay a damn thing. And we negotiated some. He sputtered around, said, well, I don't want to put you in jail. So we ended up where I paid 20 cents on the dollar, or something to that effect. But, believe me, some of us have been in that position where we didn't know where to turn and we just kind of threw up our hands and gave up. Don't give up.

Ms. POWERS. Thank you.

Senator CAMPBELL. Thank you. We will now hear from Ms. Morehead.

Oh, and, by the way, let me ask you, too. Have you been at all into work with our office on your problem or Senator Allard's or any of the Congress people?

Ms. POWERS. Yes; I have. I have written letters to Senator Allard and to you, and I have actually spoken with Ricardo on several occasions.

Senator CAMPBELL. All right. Thank you.

Ms. Morehead.

Ms. MOREHEAD. Thank you. I hope—

Senator CAMPBELL. Oh, and I also want to remind you, we are told that our time is already going to cut into the people that want to testify a little later, so if we could try to keep it to about 10 minutes, we would certainly appreciate it.

STATEMENT OF KATHERINE MOREHEAD

Ms. MOREHEAD. My hope is my testimony today will help those listening to better assess what works and what doesn't work from both the viewpoint of the taxpayer and the people working at the IRS. My experience has shown me our present U.S. tax laws do

very little to empower taxpayers or IRS employees and even less to create expedient, synergistic, creative solutions to tax problems, especially tax problems resulting from divorce.

The following timeline will demonstrate the frustration and sense of powerlessness I felt during the past 8 years of dealing with the IRS regarding my 1989 joint tax return filed following my divorce on April 9, 1990. In April 1987, while living in southern California, my husband and I separated after 17 years of marriage. With two young children, 3 and 5, I moved to Denver in November of 1987. Although not legally separated, Gary Morehead, my ex-husband, and I lived as though we were divorced for the next 2½ years. My husband sent me money for living expenses which the judge in the 1990 divorce decree rules as alimony and child support.

As a part of my divorce decree in April 1990, my husband agreed to pay the 1989 taxes, something which he had done for the previous 18 years of our marriage. Following the divorce, I discovered he had not filed a tax return and called our accountant in Las Vegas to find out what I needed to do. I was told by the certified public accountant that I could do nothing and would have to wait until he filed.

Taking the accountant's advice, I waited and asked Gary to file the tax return, never dreaming by simply filing a return for 1989 married separately I could have avoided this entire situation.

Gary did tell me he was filing, and although late, he would be paying the 1989 taxes. Thinking this had been resolved, I went about the job of being a single parent, raising two young children and putting my life back together.

In the fall of 1993, I received a phone call from the IRS informing me the 1989 taxes had not been paid, and because I had signed the joint return, I was liable for the \$24,000 debt my ex-husband had not paid. An IRS agent was sent to my work to evaluate whether I had extra money to begin payments on this debt. After looking at my financial picture, she told me she found I was not able to make payments. She had chosen to not freeze my checking account or garnish my wages and said she would never force the sale of my home where as a parent I was raising two dependent children.

She reassured me the IRS in Las Vegas, where my ex-husband was living, had assessed him \$654 a month payments toward this debt. However, I was told the IRS would put a lien on my house to secure the debt as my ex-husband showed no assets and I had an amount equivalent to the debt as equity in my home. Disturbed about the course of events, but assured by the IRS that his payments would pay off the lien and it would be removed, I moved on with my life.

During the following years, I discovered that my ex-husband only made payments for a few months. He was out of work for a few months, and when he did return to work as a developer and consultant, the IRS apparently did not follow through to return him to his payment plan. I called the IRS and asked repeatedly for information, for help, and for solutions which would allow my children and me to remain in our home and not become homeless. I

was told either I pay the now \$40,000 debt with penalties and interest or hire an attorney to sue my ex-husband.

Making \$20,000 per year teaching, I did not have the luxury of extra money for attorney's fees. Finally, in the summer of 1996, I was told about a free tax clinic at Denver University, where law students would help me for free if they decided to take my case. The clinic reviewed my case and decided to help me. As they spoke to the IRS and pressed the IRS in Las Vegas and Phoenix for information regarding this case, we were told the IRS could not even find a file on Gary Morehead and that he had not been pursued because their workload was so heavy and they did not have the staff to work on a small case like mine.

In August 1997, the DU tax clinic was discontinued. I continued to ask the IRS for information, talking with people in Seattle, Salt Lake City, Phoenix, Las Vegas, and Denver. In September 1997, I was informed by my ex-husband he had applied in that spring for bankruptcy and because the IRS had not pursued him in 3 years, according to the law, he would not be liable for the IRS debt, which was now almost \$50,000 and that I would be totally liable.

Communicating with the IRS and bankruptcy court in Las Vegas and Denver, I discovered what he told me was true. According to the IRS in Las Vegas, Phoenix, and Denver, my State divorce decree was not recognized by the IRS, and I was left accountable for an original debt of \$24,000, which had now grown to over \$47,000. Because the IRS had a lien on my home and had chosen not to pursue my ex-husband, who now was making over \$165,000 a year, and because of the IRS and Federal bankruptcy laws, I was responsible for this debt and was expected to pay it when making less than \$20,000 plus child support. Through the bankruptcy records, I also discovered my ex-husband had not paid taxes for several years following our divorce, while I had filed each year and all my refunds had gone toward the payment of this debt.

In January, feeling powerless but hopeful I could refile as an innocent spouse, I hired an attorney and we went to the IRS with the attached compromise. I would pay taxes on the amount of money I received in 1989, based on the court decision for alimony and child support in April 1990 when my divorce decree was finalized. When we went to the IRS office, we were told the current IRS laws do not allow for this type of agreement. According to the local IRS office, my only options remain paying the \$47,000 debt by selling my home, offer a compromise which could not be less than the equity in my house, which is about \$45,000, file bankruptcy, or wait out the statute of limitations, which is another 5 years. None of these seemed to me to be fair or just.

Through this experience, several things were obvious. First, the unfair expectation of a single mother to pay off debt which was greater than her income was unrealistic. Second, it became apparent the IRS, for whatever reason, was unwilling to pursue my ex-husband for the taxes owed. Because I had decided to invest my money in a home for myself and my children, the IRS used the lien on my home as an easy out rather than serving equitable justice. The IRS never attached wages on an individual—my ex-husband—who had a much higher income and who had access to the money which was originally taxed.

Most importantly, the difficulty of obtaining timely information from the IRS was frustrating. When asking for IRS information which was pertinent to my case, I was told to call another office or flatout refused information as to whether the IRS was getting money from my ex-husband.

A greatly simplified tax code could create a greater understanding for taxpayers and eliminate the need for a large, unwieldy, inflexible bureaucracy unable to negotiate fair and just settlements. Instead of relying on the advice of expensive accountants and attorneys, which the average taxpayer can ill afford, a simpler tax code could empower rather than defeat individuals like myself who are willing to pay our fair share of taxes. Hopefully, the new law severing joint liability will go a long way to helping individual taxpayers and IRS employees administer justice with our tax system, particularly in cases of divorce.

I am grateful to the IRS Commissioner, to Senator Campbell, and all lawmakers who are courageous in their willingness to look at problems and listen to stories like mine in order to create crucial and needed changes in our tax code and the administering of it.

PREPARED STATEMENT

Senator CAMPBELL. Thank you, Ms. Morehead. We have your complete statement and it will be made part of the record.
[The statement follows:]

PREPARED STATEMENT OF KATHERINE MOREHEAD

My hope is, my testimony today will help those listening to better assess what works and what doesn't work from both the viewpoint of the taxpayer and the people working at the IRS. My experience has shown me, our present U.S. tax laws, do very little to empower taxpayers or IRS employees and even less to create expedient, synergistic creative solutions to tax problems, especially tax problems resulting from divorce.

The following time line will demonstrate the frustration and sense of powerlessness I felt during the past eight years of dealing with the IRS regarding my 1989 joint tax return filed following my divorce on April 9, 1990. In April of 1987 while living in southern California my husband and I separated after seventeen years of marriage. With two young children three and five, I moved to Denver in November of 1987. Although not legally separated, Gary Morehead, my ex-husband, and I lived as though we were divorced for the next two and half years. My husband sent me money for living expenses which the judge in the 1990 divorce decree ruled as alimony and child support.

As a part of my divorce decree in April 1990, my husband agreed to pay the 1989 taxes, something which he had done for the previous 18 years of our marriage. Following the divorce, I discovered he had not filed a tax return and called our accountant in Las Vegas to find out what I needed to do. I was told by the CPA that I could do nothing and would have to wait until he filed.

Taking the accountant's advice I waited and asked Gary to file the tax return, never dreaming by simply filing a return for 1989 married separately, I could have avoided this entire situation.

Gary did tell me he was filing and although late he would be paying the 1989 taxes. Thinking this had been resolved, I went about the job of being a single parent, raising two young children, and putting my life back together.

In the fall of 1993, I received a phone call from the IRS informing me the 1989 taxes had not been paid, and because I had signed the joint return, I was liable for the \$24,000 debt my ex-husband had NOT paid. An IRS agent was sent to my work to evaluate whether I had extra money to begin payments on this debt. After looking at my financial picture she told me she found I was not able to make payments. She had chosen to not freeze my checking account, or garnish my wages and would never force the sale of my home where as a parent I was raising two dependent children.

She reassured me the IRS in Las Vegas, where my ex-husband was living, had assessed him \$654.00 a month payment toward this debt. However, I was told the IRS would put a lien on my house to secure the debt as Gary showed no assets and I had an amount equivalent to the debt as equity in my home. Disturbed about the course of events, but assured by the IRS that his payments would pay off the lien and it would be removed, I moved on with my life.

During the following years, I discovered Gary only made payments for a few months. He was out of work for a few months and when he returned to work as a developer and consultant, the IRS apparently did not follow through to return him to his payment plan. I called the IRS and asked repeatedly for information, for help and for solutions which would allow my children and me to remain in our home and not become homeless. I was told either I pay the now \$40,000 debt with penalties and interest or hire an attorney to sue my ex-husband.

Making \$20,000 per year, I did not have the luxury of extra money for attorney fees. Finally, in the summer of 1996, I was told about a free tax clinic at Denver University where law students would help me for free if they decided to take my case. The clinic reviewed my case and decided to help me. As they spoke to the IRS and pressed the IRS in Las Vegas and Phoenix for information regarding this case, we were told the IRS could not even find a file on Gary and he had not been pursued because their work load was so heavy and they did not have the staff to work on a small case like mine.

In August of 1997, the DU tax clinic was discontinued. I continued to ask the IRS for information, talking with people in Seattle, Salt Lake City, Phoenix, Las Vegas and Denver. In September of 1997, I was informed by my ex-husband, he had applied in the spring of 1997 for bankruptcy and because the IRS had not pursued him in three years, he would not be liable for the IRS debt which was not almost \$50,000 and I would be totally liable.

Communicating with the IRS and bankruptcy court in Las Vegas and Denver, I discovered what he told me was true. According to the IRS in Las Vegas, Phoenix and Denver, my state divorce decree was not recognized by the IRS and I was left accountable for an original debt of \$24,000, which had now grown to over \$47,000. Because the IRS had a lien on my home and had chosen not to pursue my ex-husband who now was making over \$165,000 per year, and because of the IRS and Federal bankruptcy laws, I was responsible for this debt and was expected to pay it, when making less than \$20,000 plus child support. Through the bankruptcy records I also discovered my ex-husband had not paid taxes for several years following our divorce, while I had filed each year and all my refunds had gone towards the payment of this debt.

In January, feeling powerless but hopeful I could refile as an innocent spouse, I hired an attorney and we went to the IRS with the attached compromise. I would pay taxes on the amount of money I had received in 1989, based on the court decision for alimony and child support in April 1990 when my divorce decree was finalized. When we went to the IRS office we were told the current IRS laws do not allow for this type of agreement. According to the local IRS office my only options remain paying the \$47,000 debt by selling my home, offer a compromise which could not be less than the equity in my house (about \$45,000), file bankruptcy or wait out the statute of limitations (another 5 years). None of these seemed to me to be fair or just.

Through this experience several things were obvious. First, the unfair expectation of a single mother to pay off a debt which was much greater than her income was unrealistic. Secondly, it became apparent the IRS, for whatever reason was unwilling to pursue my ex-husband for the taxes owed. Because I had decided to invest my money in a home for myself and my children the IRS used the lien on my home as an easy out rather than serving equitable justice. The IRS never attached wages on an individual who had a much higher income and who had access to the money which was originally taxed.

Most importantly, the difficulty of obtaining timely information from the IRS was frustrating. When asking for IRS information which was pertinent to my case I was told to call another office or flat out refused information as to whether the IRS was getting money from my ex-husband.

A greatly simplified tax code could create a greater understanding for taxpayers and eliminate the need for a large unwieldy, inflexible bureaucracy unable to negotiate fair and just settlements. Instead of relying on the advice of expensive accountants and attorneys, which the average taxpayer can ill afford, a simpler tax code could empower rather than defeat individuals like myself who are willing to pay our fair share of taxes. Hopefully, the new law severing joint liability will go a long way to helping individual taxpayers and IRS employees administer justice with our tax system, particularly in cases of divorce.

[CLERK'S NOTE.—The compromise mentioned in Ms. Morehead's statement does not appear in the hearing record, but is available for review in the subcommittee's files.]

SENATOR'S EXAMPLES OF OTHER CASES

Senator CAMPBELL. About 1½ years ago, I got a call from a lady in Montana, whom I had known just slightly, had met, who had a story almost identical to yours—a single mom, several children—in fact, her oldest son just recently died in a rodeo accident—living in an 8-foot camper out in the woods, and went to a local store to make the call. That is how broke she was and how scared she was, too. She had a story almost identical to yours, and the next thing that really worried me is she just flat told me on the phone that she was going to kill herself, that she had no options, totally hopeless, didn't know who to turn to.

I called the Billings agency of the IRS, and to their credit, they did go to work on it right away and helped straighten it out and it was all kind of taken care of. But I think that in some extreme cases that is not out of the realm of thinking, when people feel that they are set upon by the Government and they have nobody to turn to and nobody to talk to. That has entered the minds of a number of people when they have seen everything lost because of what they consider to be punitive actions by their own Government. There is something wrong in our Government when people do that.

I had a guy in Steamboat Springs a few years ago, hiding behind bushes when I was doing a town meeting, who whispered at me when I came out of the town meeting and asked me if he could talk to me. And I said sure, and I went over and talked to him. He said he had been warned by IRS agents not to talk to his—I was in the Congress on the House side—not to talk to his Congressman. Boy, there is something wrong with Government when we have that kind of intimidation and fear. So thank you for testifying.

Ms. MOREHEAD. In all credit to the person who evaluated me initially, I mean, she did have that compassion to allow me to stay in my home, and I am grateful.

Senator CAMPBELL. Well, it does go to show there are some IRS people that really are trying, and I know in the case of this Montana woman, somebody up there really went to work and did fix it, fortunately for that lady and for the IRS, too, because I was certainly going to hold them responsible.

Dr. Stjernholm.

STATEMENT OF ALVIN STJERNHOLM

Mr. STJERNHOLM. Thank you. I want to thank you, Senator Campbell, for the opportunity and the privilege to testify here this morning relative to the abuse by the IRS. I want to point out that the passage of the House of Representatives bill relating to the IRS is a nice gesture, but does nothing to compensate the hard-working citizens financially raped by the IRS.

A letter dated October 15, 1997, from Donald M. Squires, Chief, Branch Disclosure Litigation, well documents the fact my attempt to get my records through the Freedom of Information Act from the IRS was stalled for 4 years as Mr. Squires' letter relates to my appeal dated December 10, 1993. As of this date, the documents re-

quested in 1993 have not been furnished, and the reason that letter appeared was because of the Senate hearings before—the IRS before the Senate.

My attorney stated to me personally that he does not know of other individuals financially raped by the IRS as bad as my wife and I. My wife and I donated a Mobile Educational Unit to the Colorado Chiropractic State Association, and I was allowed a writeoff approximately \$58,000 over a 3-year period. Approximately 12 years later, IRS officials ignored the statute of limitations and the IRS code and denied my gift given 12 years earlier and properly audited by the IRS examiners for 16 consecutive years. The IRS officials then decided 3 of the 16 years they had audited were wrong, and the IRS then demanded \$230,000 in back taxes, liened our home, and destroyed our credit.

I had made a deposit on a ranch in Wyoming and had approximately \$216,000 in equipment and personal property in Wyoming. The IRS seized all of the equipment and personal property in Wyoming and held an auction. A Freightliner tractor, a La Crosse 24-ton low boy equipment trailer, and an International Track (250) caterpillar loader were all auctioned off miles from the auction site. Receipts for major repairs to document market value were ignored.

Following the auction, the Stjernholms were allowed \$25,000 instead of \$216,000 toward the \$230,000 assessed by the IRS.

For over 1 year, my attorney has attempted a cash settlement and an additional \$226,000 was paid to the IRS in May 1997. During the past year of negotiations, additional amounts of \$3,000 and \$25,000 were demanded or all negotiations would be terminated and additional property would be seized and auctioned. In January 1998, an additional \$73,000 was paid and liens were finally released.

I am currently paying twice the interest rate of the going interest rate because no one will touch you because of your lien by the IRS. And my banker was threatened for helping me along the way before these liens were released.

The IRS officials ignored the statutes, the statute of limitations, and the laws as they relate to the IRS codes and the audits they previously approved for 16 consecutive years.

Senator, will you please introduce legislation or amend the current IRS bill in order to compensate a hard-working Korean vet and his wife in addition to other numerous people who have been financially raped by the IRS.

At age 65, I am several hundred thousand dollars in debt because of the IRS financial rape job.

Senator, the Tax Code is a real problem, but the arrogant IRS officials out of control, ignoring the codes and the statutes, is a more serious problem.

I should bring to your attention the fact I have spent several hundreds of thousands of dollars on tax attorneys, but these tax attorneys are intimidated by the demands of the IRS officials. Even the tax judge reversed his position 1 year later, as well documented by a \$1,000 transcript of a 1-day trial. And at the conclusion of that trial, I should add, the judge was so impressed with our testimony that he came down and literally shook hands with my wife

and I and wished us well. But 1 year later, he handed down a decision, and it was negative to our trial.

In closing, I should report the fact I was again audited in 1991, as my herd of buffalo as a separate business was in question. The IRS examiner was pleasant and efficient and approved my return as 100 percent OK.

Based on the testimony of the former employees and my personal experience with approximately 17 examiners, all but one of these examiners were pleasant, competent, and good, hard-working IRS employees. The real problem is with the IRS officials, starting with the past Commissioners of the IRS. I have a great deal of correspondence with those officials to document their abuse and financial rape.

Again, Senator Campbell, I want to thank you for allowing me to present this testimony of financial abuse, and thank you, Mr. Rossotti, for your attendance and your interest here today.

Thank you.

PREPARED STATEMENT

Senator CAMPBELL. Thank you, Dr. Stjernholm. We will insert your prepared statement in the record.

[The statement follows:]

PREPARED STATEMENT OF DR. ALVIN STJERNHOLM

The passage of the House of Representatives bill relating to the IRS is a nice gesture, but does nothing to compensate the hard working citizens FINANCIALLY RAPED BY THE IRS.

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THE IRS OFFICIALS IGNORED THE STATUTES, THE STATUTE OF LIMITATIONS, AND THE LAWS AS THEY RELATED TO THE IRS CODES AND THE AUDITS THEY PREVIOUSLY APPROVED FOR 16 CONSECUTIVE YEARS.

Senator, will you please introduce legislation or amend the current IRS House Bill in order to compensate a hard working Korean Veteran and his wife in addition to other numerous good people who have been financially raped by the IRS.

At age 65, I am several hundred thousand dollars in debt because of the IRS financial rape job.

Senator, the tax code is a real problem, but the arrogant IRS officials out of control, ignoring the codes and the statutes, is a more serious problem.

I should bring to your attention the fact I have spent hundreds of thousands of dollars on tax attorneys, but these tax attorneys are intimidated by the demands of the IRS officials. Even the tax judge reversed his position a year later, as well documented by a \$1,000 transcript of a one-day trial.

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Thank you for allowing me to present this testimony of financial abuse by the IRS.

STATEMENT OF ROBERT LESHER

Senator CAMPBELL. Mr. Lesher, if you would go ahead.

Mr. LESHER. Thank you, Senator. I am Robert Lesher, a Denver resident for 40 years. Microphone coming through? OK. Former Air Force fighter pilot, and I have been a commercial real estate broker and investor for a long time here, or was until all this broke loose.

By 1990, when this starts, my estate was composed mainly of general partnerships with other local investors in real estate, and it was a pretty good estate. By the end of 1991, I had no estate after the IRS did its initial—

Senator CAMPBELL. Mr. Lesher, I think you are beginning to fade out a little bit. You need to get closer to the microphone.

Mr. LESHER. By 1991, the estate has ceased to exist after the IRS audit. I am going to speed this up because I know you are running late.

In January 1990, an IRS auditor contacted me and wanted to go over the 1988 returns. He explained he was working for a special project out of the TEFRA office in Ogden, UT, the IRS Service Center. No partnership of mine had ever been a so-called TEFRA partnership, tax shelter partnership. However, he had stumbled on a partnership we had put together in 1989 to buy a care home here in Denver up in the Highlands area caring for about 120 mentally handicapped people, people who could not function—they were not dangerous, but they couldn't function well in society on their own.

The Federal funds earmarked for that population, however, were sidetracked by the Governor of Colorado into a new State bureaucracy, and the home failed. We lost our shirts, and the 120 residents ended up on the street. More than a few of them died.

After the auditor began working on our records, my wife suffered a stroke—not connected to the audit, I don't believe—and this was a bad one, and I asked for a little time to help care for her. The auditor was under a lot of pressure. He couldn't do much. He stayed on us. I asked for help from a problem resolution officer here in Denver by the name of Mr. Blighton. He was a very nice fellow, told me to file a form 911 and he would try to help, but that, unfortunately, the Denver District was all out of form 911's,

but he would be glad to send me one when they got some more in. Until then, he really couldn't do anything.

Three months later, he did send me one. I filled it out the same day and returned it, and he wrote a letter saying, you took too long filling this out, I can't help you. End of that chapter.

Mr. Virkler, the auditor, in continuing his work, stated he had audited the partnership returns before coming to me, which is required by IRS procedure—and common sense. It turned out he had not because he was under a lot of pressure to push through as many audits as he could. The project needed as many scalps as soon as possible to show the public that, in theory, they were beating up on the rich, and we were supposed to be one of the rich. We were out of business, but we were the rich.

The auditor revised the K-1's in the partnership to show that we had a profit instead of having lost, and in violation—and he told me this—of a tax code paragraph, 108(d)(7)(A), he flowed the so-called income that he created through our S Corp. partners to our personal returns and charged us with all sorts of unpaid taxes, penalties, interest, high crimes, and misdemeanors, like everybody else I have been listening to this morning.

He was quite open about the whole thing, what he was doing that was right and what he was doing that was wrong. He even helped me write an appeal and pointed out all he had to do was file an amended return for the form 8082 that nobody had ever heard of—I finally found out what it was—and the whole matter would go away.

As the months went by, the appeal went in, the months went by, nothing happened. I started looking for an appeals officer and I couldn't locate where the appeal was. And the next thing that actually did happen was an assessment signed by a local fellow. I don't know titles. Some of the IRS titles I found, I can't equate them to the private sector, so they don't make much sense to me. This was a fellow named Santambrogio who signed an assessment against us and another fellow signed a lien against us, the usual lien that you heard about this morning. There went the credit; there went being able to be a real estate broker; there went my estate, because, in general, in partnership organizations where you get together with a few people to invest in something, normally you have a clause in there that if you incur a tax lien, Federal, State, something like that, your partnership vanishes—for good reason. Nobody wants to wake up in the morning and find the IRS in bed with you as a partner, or the State revenue people. That is the protection. My partnership interests vanished at the stroke of a pen.

An appeals officer finally did surface, a very nice lady—most of these people were very nice—with the position that since we were already assessed, there was no point in considering our appeal. Appeal dismissed. She made one noteworthy statement: "We have a 'gotcha' for everything." I remember that one.

The lien stopped my business. It didn't produce any income to the Government.

I went to tax court to try to do something there and spent what little money I had left. We got ready to go to court, and one of the local IRS attorneys said, Oh, well, this case is not going to court because TEFRA cases don't have a right to go to tax court. They

are streamlined into collection. I said, well, Bill, this is not a TEFRA case, as you well know. He said, No, but we are treating it as one. It started off as one, so we are treating it as one.

I later learned that what he told me was not true. TEFRA is an acronym for the 1986 Tax Code which was designed to catch tax loopholes. That is where that term comes from.

However, this same fellow, one of the attorneys, along with the auditor and another pro had suggested filing an amended return. We did. It vanished. We never found a sign of it. I did file a FOIA, Freedom of Information request. I had a little better luck than you did, I believe. I got partial things out. A lot of names were removed from memos, and I would get page 2 of a five-page memo and things like that. I got a little information, and there was some reference to the amended tax return and a reference to finding ways to just not process it. And it was just not processed. I don't know where it is today. It probably just isn't.

The next step, Denver District Counsel Neal Roberts, a very excellent fellow, suggested I contact a Dave Christiansen in the TEFRA office in Ogden, where this whole thing started. Mr. Christiansen pulled my file over there, looked at it, said this is "off the wall," sent it back over here to Denver District and requested that they reaudit, do this over again. Denver District said no, we don't have time for that sort of thing. Mr. Christiansen did that round trip again with the file and back to Denver District, coming into a different person. Denver doesn't report to Ogden, so he can't order it. He can only suggest it. They both report, I think, to Dallas.

Again, Denver District said no, we are not going to reaudit this.

That avenue closed, I filed an offer in compromise, taxpayer not liable, using the exact code—well, the exact code I quoted from the original auditor. He said this is not valid because you cannot flow through because of—and I quoted the code book and page—you cannot flow—even if the partnership, which didn't have a profit, did have a profit, you can't flow the taxes through from an S corporation to the owners of the corporation.

A pretty good argument. It was never answered. The letter that came back was from the same person who had signed the assessment a couple of years beforehand, and his denial was a one-page letter in which he stated the IRS had determined that our workers were, in fact, employees and, therefore, we owed the taxes.

Hello? Workers? We never had any workers. That wasn't the subject. What is going on here? I assumed that he was mixing this up with another case. I wrote him back politely and said I think, you know, you have titled your letter to our case, but you are answering somebody else's offer in compromise. Mr. Santambrogio's letter came—a second letter came back, said no, we find your workers are employees, therefore, you have got to pay the tax.

Senator CAMPBELL. Mr. Leshner, I hate to hurry you, but we are going to have trouble fitting all of our panels in if we run on.

Let me ask you, the letters you are talking about, did you submit copies of those letters to the committee, too?

Mr. LESHER. No; but I can.

Senator CAMPBELL. Would you please do that?

Mr. LESHER. Yes; everything I am saying here is—almost everything is in letter form.

Senator CAMPBELL. Anything you have a documentation of, we would like to have.

Mr. LESHER. How about three large volumes?

Senator CAMPBELL. That is good. Everything.

Mr. LESHER. That is pretty much the end of it. There are lots of other colorful things. It still sits in that position. I am doing other business now because I can't do what I was very good at, one of the leading brokers here in town. An ex-IRS attorney summed it up pretty well and made me feel actually a little better about the whole thing, saying that there is really nobody in the IRS whose job it is to fix messes, clean up messes. And ours was obviously a mess. And anybody who stood up and said, hey, look, we really screwed up on this Lesher's return and audit and so on, let's get it fixed, would be a marked man, really, kind of like a whistleblower. There is just nobody that would dare do that. That makes sense.

One of the comments from—coming out of the offer in compromise was that—and this was not given to me. This was a private note that I got from a FOIA, Freedom of Information, was that he thought that we had unreported income. A very bad thing. So a new audit this past year with the lady going around town to the Board of Realtors and places saying we are investigating Mr. Lesher for unreported income and tax fraud.

Senator CAMPBELL. Mr. Lesher, I have to remind you, we are going to have to move on. We have to take set-up time for the next panel.

Mr. LESHER. I am through. That ended finding nothing, and that is where we stand at the moment. I tried to get them to say we found nothing, but they wouldn't do it.

PREPARED STATEMENT

Senator CAMPBELL. Mr. Lesher, we will insert your complete statement in the record.

[The statement follows:]

PREPARED STATEMENT OF ROBERT LESHER

I am Robert Lesher, 65, Denver resident 40 years, former Air Force fighter pilot, long a real estate broker, investor in real estate partnerships. By 1990 my "estate," as it were, was made up of interests in several investment property general partnerships with other local investors, and I continued as a Realtor and commercial broker.

January 1990, IRS auditor Eric Virkler contacted me, wanting to audit my 1988 returns. He explained he was working an audit project for the TEFRA office of the IRS's service center in Ogden, Utah. TEFRA is an acronym referring generally to tax shelter partnerships, the so-called tax-loopholes that Congress so loves to use to whip the public's emotions. No partnership of mine had ever been a TEFRA partnership. However, Mr. Virkler had blundered into a failed enterprise where we had bought and tried to operate a home for the mentally handicapped, here in Denver. The federal funds earmarked for that population were sidetracked by Colorado Governor Romer into a new State bureaucracy, the home failed, we lost out shirts, and the 119 mentally retarded residents ended up on the street. We had to return the property to the mortgage holder.

When Auditor Virkler arrived on the scene, my wife Peggy suffered a severe stroke. However, Mr. Virkler was under some pressure to deliver scalps and, while I was trying to get help care for my wife, he made continuous demands, threats,

phone calls, and such to get my immediate attention to his cause. My wife has since died.

To get breathing room, I sought help from Problem Resolution Officer Phil Blighton. He seemed sympathetic, told me to file a form 911 and he would try to help. Unfortunately, he said, the district was all out of form 911's, so until they got some in, there was nothing he could do—except mail me one when they arrived. Several months later one came in the mail, I completed it and returned it to Mr. Blighton the same day. He wrote that I had taken too much time completing the Form 911, and that my request for help was therefore denied.

Mr. Virkler stated he had audited the partnership returns before coming to me, as required by law. It turned out he had not, though to speed things up he issued the partnership a no-action letter. The TEFRA audit project needed as many scalps as soon as possible to show the public that in theory they were beating up on the rich. We were supposed to be the rich.

Mr. Virkler had revised partnership K-1's to show that my S corporation, the partner in the care home, had a profit as a result of the business failure, a not unusual IRS interpretation. In open violation of tax code paragraph 108d7A he flowed the so-called debt-relief income through the S Corp to our personal returns, and charged us with all sorts of unpaid taxes, penalties, interest, high crimes and misdemeanors.

In all this, Mr. Virkler was quite open about what he was doing in accordance with, and in violation of code and regulations, and provided me documentation on the side to support an appeal and wipe out this new tax debt. He even helped me write an appeal that made sense. Also, he pointed out, all we had to do was file an amended return employing a form 8082, and the whole matter would go away.

As months went by, I heard nothing back from the appeal, and could not even learn who had it, or where the appeals office might be. Then I received notice that one Michael Santambrogio has filed an assessment against us, followed by a general lien against all our property real and personal. I tried to contact both these gentlemen by letter and phone. Neither would answer nor return calls.

An appeals officer finally did surface, with the position that since we were already assessed, there was no point in considering our appeal. Appeal dismissed. She made one noteworthy statement regarding the whole process: "We have a gotcha for everything—whatever we want to do, we can find a rule to support it."

The lien stopped my real estate brokerage business and wiped out my estate, as it were, though in so doing produced no income to the government. A standard condition of private partnerships is that if any partner incurs a tax lien, his interest in the partnership vanishes as though it never existed. No one wants to wake up in morning to find the IRS in his bed as a new business partner. The estate I had been building for 20 years in the profession was wiped out forever by the pen of one Phil Voss, who signed the lien.

We went to tax court, and spent what little money we had left putting together our case for that in-house judiciary. Just before our court date, the IRS' attorney, Bill Davis, advised us that TEFRA matters had no right to go to tax court. But this is not a TEFRA case. That's all right, we're treating it as one. Later I learned that what Mr. Davis had told me was untrue, that in fact we could have proceeded with tax court.

Mr. Davis, along with the auditor and another PRO had all suggested filing an amended return, which we did at the same time, well within the 3-year time limit. It vanished, and was never acted upon one way or another. I found mention of it in unsigned memoranda acquired through a Freedom of Information action, advocating finding some rule to disallow it.

Denver District Counsel Neal Roberts suggested I contact one Dave Christiansen, in the TEFRA office in Ogden, where this whole thing had started. I did so. He called in the files, allowed that our case was, "off the wall," and sent the files back to Denver District with a request to reaudit. Denver District refused. Mr. Christiansen made the same round trip a second time, and a second time was told to forget it.

That avenue closed, I filed an offer in compromise (taxpayer not liable), an appeal of sorts generally unknown to the public. Though I could have made a number of arguments, I made only one, what I considered the simplest and more irrefutable, that the flow-through of the bogus K-1 income was in violation of the tax code as sited. One paragraph, with documentation.

The answer came back from, lo and behold, the same Michael Santambrogio who had filed the premature assessment. His denial was a one-page letter in which he stated that the IRS had determined our workers were in fact employees therefore we owed the taxes.

Hello? Workers? What workers? I assumed the letter was mixed up with another case, returned it to him with a polite note to that effect. Not so. His second reply was the same as the first. Mr. Santambrogio could find no way to refute my claim, so he faked a different claim and “answered” that instead.

I wrote him again. He wrote back that he has talked to the person I worked with in Ogden (Dave Christiansen), and their attorney in Denver (Bill Davis) and that both agreed we owed the money, period. That of course, did not answer the OIC, but was supposed to shut me up.

I called Dave Christiansen, who denied in writing expressing any such opinion to any one, and denied ever talking with Mr. Santambrogio. I called Bill Davis several times. He would not return my calls.

Dave Christiansen has since been reassigned by the IRS. I am unable to learn of his whereabouts.

An admittedly fraudulent audit, an appeal and an amended return ignored, the right to court denied, and the OIC process brushed aside with lies.

Many friends have helped me survive after being put out of business by the IRS process and my assets, my partnership interest, made worthless. Yet in no way was my loss the government’s gain. They simply destroyed a productive, tax-paying businessman as a matter of their normal course of business, not with any particular malice.

To close, an observation by an ex-IRS attorney summed it up pretty well, and made me feel that this on-going nightmare was not my own insanity. Sure our case is a mess, it is illegal, improper, and the IRS has done almost everything wrong. However, no one at any level in the IRS is going to stand up and say so unless he’s ready to commit career suicide. It’s the same as being a whistle blower. No one in the IRS would dare come out and say, “Hey, we really screwed up on the Leshers, and we need to correct that mess and let them live their lives again.” No one in the IRS would have the courage or the integrity to do a thing like that.

With that reality check, nothing got fixed but I felt a lot better.

NEED FOR MAJOR CHANGES

Senator CAMPBELL. Well, I appreciate your testimony. I have to tell all of you that when I see grown men who have served in the military, in the Korean War, as I have, by the way, Doctor, and people who have seen their families come apart or lost their homes, when I see, very frankly—I have been taking notes, and I am sure the Commissioner has, too. But he is not looking in your faces. He is beside you. But when I see tears coming up in your eyes, I can understand the hopelessness that some of you feel in dealing with the IRS, and there is no question in my mind we have to make some major changes if we are ever going to have the American public’s confidence restored in Government. It has to start with the agency that takes their money.

I do appreciate you all being here, and with that, if you have any additional comments you would like to turn in over the next week or so, we will make sure they are included in the record, too.

PANEL 2

STATEMENTS OF:

DORIS MARTINEZ, FORMER IRS REVENUE AGENT, PRESIDENT, ASSOCIATED TAX CENTRE, INC.

KENNETH TUCHMAN, FOUNDER AND PRESIDENT, TELETECH

INTRODUCTION OF WITNESSES

Senator CAMPBELL. We will now go to panel 2, and that will take about 5 minutes to set up: Dr. Doris Martinez and Mr. Ken Tuchman, I believe it is pronounced. If you would come up and get your equipment set up, we will just take about a 5-minute break while we are doing that.

[A brief recess was taken.]

Senator CAMPBELL. On this panel, there are only two people testifying on this panel, so we will be able to go a few minutes longer than the former panel. So we will start with Ms. Martinez, if you would like to go ahead, and then we will proceed with Ken Tuchman after Ms. Martinez.

Bring that microphone over directly from you.

STATEMENT OF DORIS MARTINEZ

Ms. MARTINEZ. Senator, I would like to remind you that I am hearing impaired, I am profoundly deaf, that and the fact that I can't hear the words now. So today I have asked for some help today with notetaking.

Senator CAMPBELL. Sure. For the audience, Ms. Martinez said she is hearing impaired, and she will need a little help, and that is why other people are here with her. But you still need to speak directly into that thing.

Ms. MARTINEZ. OK. This is Frankie Bowie and Gary Gurhle and Darla Espinosa will be joining us to help us with the notetaking in just a few minutes. Here she is. OK.

With that, on behalf of Denver District taxpayers, I would like to commend you, Senator Campbell, and the Treasury and General Government Subcommittee for holding this most important IRS field hearing, the purpose of which is to discuss—

Senator CAMPBELL. Doris, you are still too far away from the microphone.

Ms. MARTINEZ [continuing]. The purpose of which is to discuss ongoing restructuring issues and potential remedies. With congressional action pending on H.R. 2676, we believe the input offered today may be vital in considering certain provisions. For those issues not yet on the table, perhaps future legislation and changes to IRS procedure and policies can provide much needed taxpayer protection and relief.

My name is Doris Martinez, and I am a former IRS agent, Denver District, from 1977 to 1984. I have been in private practice since 1987, and I am president of Associated Tax Centre, a firm which specializes in handling IRS problem situations. I have been profiled in articles by the Denver Post, the Denver Business Journal, Accounting Today, and, along with my partners, cohosted a radio talk show during the filing season in 1996. Our topics focused on IRS tactics, abuses, taxpayer rights, and responsibilities. I am an enrolled agent and a member of the National Society of Accountants and National Society of Enrolled Agents.

The testimony offered today is based on my experience and knowledge gained as an IRS employee, taxpayer representative, and humble taxpayer.

The issues brought to your attention are wide and varying, but with a common theme: the need for equitable tax procedures and laws, and equitable treatment of all taxpayers by an IRS held accountable for its actions.

TAXPAYER ADVOCATE AND PROBLEM RESOLUTION PROGRAM

Commissioner Rossotti has requested a \$10 million increase for the Taxpayer Advocate's Office and Problem Resolution Program. Until the Office of the Taxpayer Advocate becomes independent in

all aspects, I believe Congress should reconsider the request, deny it, or consider reduction or elimination of the program altogether. The basis for taking position is my experience in dealing repeatedly with the Denver District Problem Resolution Office with consistently unproductive results and information secured from the Tax Analyst, a nonprofit watchdog organization.

According to documentation provided by the taxpayer advocate and subsequently reported by the Tax Analyst, during a recent 3-year period district problem resolution offices handled over 121,000 requests for assistance. Only 82 taxpayers received orders for relief. This is inefficiency at its worse. At the district level, problem resolution officers have no authority to compel action or provide relief. Their purpose is to gather information and submit reports. When a taxpayer submits a request for assistance, the problem resolution office refers the case to the appropriate division and PRP caseworkers work the case. In reality, these are IRS collection and examination division personnel assigned to the PRP program. These employees have the same attitudes and objectives as their nonproblem resolution counterparts. The perspective that each district has a taxpayer advocate field office is nothing more than an illusion, a \$34 million illusion.

Solution: H.R. 2676 does not go far enough in providing taxpayers with an independent program with which to resolve hardship cases or previously unresolved issues. An objective problem resolution program is critical to effective taxpayer relief. There is only one taxpayer advocate, and that position is not autonomous. That is not enough.

Utilization of outside contractors using existing budgets at the district level, specifically enrolled agents, CPA's, or tax attorneys experienced in IRS matters, is a possible solution. If we accept the premise that both IRS employees and enrolled practitioners outside of the Service are following the same Internal Revenue Code and operational directives contained in the Internal Revenue Manual, then the issue of adversarial relationships between an independent problem resolution office and the IRS is nonexistent. Ultimately, we all answer to the Secretary, Department of the Treasury.

DISPARATE TREATMENT OF MINORITY TAXPAYERS

Our observation is that all taxpayers are not being treated equally. African-American taxpayers are treated the worst, with Hispanics running a close second. Examples of abuses are:

Insisting minority taxpayers liquidate their retirement funds or sell their homes in predominately white, upscale neighborhoods, when their nonminority counterparts are granted generous installment agreements, leaving their assets intact.

Two, refusing to accept that Hispanic males are responsible enough to secure custody of their children and support them, thereby denying the earned income credit when it is rightfully due. Statements made by Service Center employees include, "We know how you people cover up for each other." "You people." In this situation, documents were requested from a single Hispanic father and timely submitted. The affidavit was provided by another Hispanic surnamed individual, the baby-sitter. It was not good enough for

the line employee. It took a complaint to the manager to get the information accepted and the earned income credit released.

In yet another instance, a revenue officer demanded a family of five children, living at below poverty level, be paraded in front of her and taken back to her work area so she could question them without their father present. They were 5 to 15 years old. The revenue officer asked them who took care of them, who cooked for them, where was their mother. Their mother had left them, and the littlest one, the 5-year-old, sleepy-eyed and somewhat disheveled, answered: "My mommy doesn't live with us anymore. She doesn't love us. My daddy and my brother take care of me." I was there with them. These children were forced to relive a traumatic and heart-breaking event in their life in front of two strangers, the revenue officer and me. All this, to put a taxpayer in currently not collectible status. I don't see these types of demands put upon non-minority taxpayers.

In May 1996, I received a call from a retired IRS tax auditor from Fresno, CA. He wanted to know if I had noticed that minority taxpayers were audited more frequently and treated more harshly. This was his experience. He was concerned and he was angry. Based on that call, my own experiences, and recent findings by the GAO regarding earned income credit issues and higher audits rates in States which have high minority populations, it appears this is a national issue.

Solution: When a representative from the IRS discriminates against a taxpayer, he or she not only insults the taxpayer, but insults, me, you, the district director, the Commissioner, and all Americans. The Service has EEO programs and rules which are supposed to be enforced internally. Yet these very issues still exist when dealing with the taxpayers, and they have no place to go. I know of few alternatives when dealing with racism. Zero tolerance for disparate treatment of taxpayers under threat of discipline or loss of position should be a Servicewide mandate. Other than that, there is only one way to deal with racism and that is to confront it, confront it one employee, one situation at a time. Responsive IRS management which takes swift action to correct the taxpayer's problem and discipline or fire the offending employee will result in a more effective IRS. The solution does not come so much in the form of a request, but it is rather a demand.

SECRET HIT LISTS AND ACTIONS AGAINST TAXPAYER REPRESENTATIVES

While a representative in the Denver District, I saw "Hit Lists of Problem Preparers." In October 1996, my partner and I were advised by current and former IRS personnel that my firm and I were on that list. In September 1997, a Denver District branch chief, examination, denied I was on the list, but verbally confirmed that the district passes a list around, and during tax season solicits information from revenue agents to find out who's giving them a bad time so they can put them on the list and conduct surprise field compliance visits. This is a document and a practice that, if an outsider asks, IRS management will summarily deny exists. It is one of their dirty little secrets. Use of this tactic is used to harass taxpayer representatives and discourage representation.

I know of another taxpayer representative, also on this dubious list, who has been pursued to the point of total disruption of her business and family life. She is a meticulous practitioner, but wound up on somebody's bad side at the IRS while representing an audit or collection issue. Both she and her clients have been put through grueling audits, most of which have been largely unproductive.

I have mentioned my partner several times. His name was Rudy Maestas. He is not here today because he died 18 months ago. The Denver District had been pursuing us for several years in a relentless and obsessive effort to disbar me or otherwise put us out of business. There were times when we felt like the wrath of 800 IRS employees was upon us and it was frightening to the point where we feared for our lives. The reason for pursuit? "She has influence over taxpayers, she has influence over further compliance, she is high profile and former IRS. She doesn't meet the criteria for these actions, but pursue her, anyway. Treat her like a tax protester."

These statements, made by IRS officials, were found in documents secured via the Freedom of Information Act. The FOIA provided evidence of illegal snooping, forgery, falsified and fabricated documents, and repeated districtwide disclosure violations, among other things. The Denver District has expended at least \$500,000 and 4 years pursuing us, a pursuit which is not yet over.

In the middle of all this, my partner Rudy became so upset, so distraught, that he told me, his family, and friends that if anything happened to him to look to the Denver District IRS as the cause of his death, no matter what the circumstances. And so today, Commissioner Rossotti and District Director Hutton, I hold this district responsible for whatever you took off my partner's life. Because I am profoundly deaf, I know what real silence is like. And there is no sound which screams as loudly in my ears as the silence of my partner no longer here. Rudy was my partner and my best friend. In contributing to Rudy's death, this district may have silenced his laughter, but you have not silenced his voice, for today I speak for us both. His death has broken my heart, but not my spirit.

Nevertheless, the question still remains: Despite repeated complaints up to the regional level, why hasn't IRS management asked to see my full documentation and pursued the issues? I have offered the documentation more than once. Why haven't you taken action against the guilty Service employees within this district?

Solution: There are already laws, including the new illegal snooping law, existing disclosure laws which hold IRS employees accountable, the Privacy Act of 1974, and the Freedom of Information Act, all meant to protect the taxpayer, not the perpetrators at the IRS. Yet these laws remain largely ineffective without an independent outside board with full authority to investigate and take action. It is clear that the IRS on its own is not capable of conducting full and objective investigations, nor are they taking appropriate corrective action.

Hit lists on problem preparers/practitioners are unconstitutional, un-American, and in violation of the Privacy Act. IRS employees who engage in this practice, encourage it, perpetuate it, or stand

by and do nothing should all be held accountable and disciplined or fired.

The practitioners on these lists are entitled to know that their rights have been violated, be given an opportunity to file formal complaints, and provisions made for damages or compensation to be paid without litigation. Use of mediators would expedite the process and keep expenditures for all parties to a minimum.

I am mindful of the concerns by Service employees that they may be disciplined or fired without due process. While that is not the suggestion, the current concerns of 58,000 IRS employees should not supersede the concerns and welfare of 200 million American taxpayers and their representatives.

ABUSIVE AUDITS AND LACK OF DUE PROCESS

There seems to be a growing pattern in which tax auditors and revenue agents conduct audits which are malicious, intrusive, and largely unproductive. Most of these audits could be handled via correspondence using the computer matching program. Many times audits shouldn't take place at all or are concluded with grossly erroneous results. Examples:

A recent office audit was conducted on a Form 1040EZ with a potentially omitted W-2 in the amount of \$200. The tax auditor attempted to do a lifestyle audit and demanded the taxpayer provide copies of his parents' tax returns and Social Security numbers. The audit was ultimately a no-change.

A 500-hour field audit, which included a national search for assets, when, in fact, the audit could have been accomplished via correspondence using the computer matching program. Cost of the field audit exceeded \$25,000. A correspondence audit would have taken \$2.50, postage included.

The continued practice of denying taxpayers the right to protest unagreed issues, even when a taxpayer has specifically stated he or she wants to protest, remains a problem. Every time Service personnel deny someone the right to protest or appeal, they contribute to the ever increasing problem of taxpayer noncompliance. The hardest thing to do as a representative is to convince a wronged taxpayer that the system will work next time.

Solution: We should eliminate the majority of tax auditor and revenue agent positions. These people clearly do not have enough to do. Office and field audit procedures remain largely archaic and are increasingly intrusive. The purpose of an audit is to ensure that a return is substantially correct as filed, nothing else. With computerization and the expansion of information returns, most office and field audits are unnecessary. Lifestyle audits must be limited to those circumstances which are clearly developed after the initial interview and basic audit procedures have been concluded. An outside citizens oversight board should be responsible for handling complaints, monitoring abusive practices, and holding management and line employees accountable.

PENALTY AND INTEREST ABATEMENTS AND REFORM

All penalties contain provisions for abatement or refund if there is reasonable cause. In short, the Internal Revenue Code provides for our humanity. In reality, there is no parity as to who receives

abatements. It is easier to get a \$100,000 penalty abated for a corporation than it is to get a \$200 penalty removed for an individual. The smaller the taxpayer, the more personal it gets, all the way down to whether or not that taxpayer has ever sinned before.

Today we live in a more complex society in which divorce, frequent moves, violent deaths, and all manners of bizarre circumstances descend upon a person's life. Abatement procedures and reasonable cause must be updated and expanded to reflect our society. Frequently, taxpayers are erroneously told they cannot request abatements until the full tax has been paid. The current move to make notices more readable is to be commended. We must go one step further and include with every written notice of assessment and demand for payment a simple instruction which allows the taxpayer to request abatement of refunded penalties. The assessment or demand letter should include space for the taxpayer's explanation of circumstances and instructions to attach any relevant documentation they would like considered.

H.R. 2676 contains a provision to suspend failure-to-pay penalties so long as the taxpayer is making payments, but there is no provision to suspend interest. Ongoing discussions regarding the cost of abating penalties along with expanded innocent-spouse provisions estimate the cost to be at more than \$5 billion. The cost of tax-related bankruptcies, which account for up to one-third of all bankruptcies, and repeated noncompliance could be avoided and would greatly reduce the \$5 billion loss of revenue. Most taxpayers want to pay their taxes. It is the penalties and interest which frustrate and discourage them the most.

Solution: More realistic policy and abatement guidelines which rely less on the whim of Service employees and are more consistently applied are badly needed. Regardless as to whether it is applied to tax or penalty, taxpayers can only pay so much. Legislation providing for suspension of interest so long as payments are being made should be considered.

Today the overall rate of noncompliance is 20 percent, up from 5 percent in 1960. If we can reverse that trend by 1 percent by avoiding bankruptcies and encouraging taxpayer compliance, at the current rate of payments processed by the Internal Revenue Service in the amount of \$1.7 trillion per year, an additional \$17 billion per year will be collected, voluntarily. This will more than offset any losses due to penalty, interest, or innocent-spouse reform.

TAXPAYER EDUCATION AND THE INTERNAL REVENUE CODE

The original Internal Revenue Code was 16 pages long. Today's code contained over 500,000 words and is still growing. The Taxpayer Relief Act of 1997 alone contains 800 amendments and 300 new provisions. Was America sleeping when we let this get by? To Congress, I say, What happened? And I would like to show you the Internal Revenue Code, two volumes. The 1997 Taxpayer Relief Act, this is it by itself.

Senator CAMPBELL. Do you have that memorized yet? [Laughter.]

Ms. MARTINEZ. I had to buy bifocals just to read this. To Congress, I say, What happened? What happened?

Americans are obsessed with taxes, yet they don't understand them. If you ask a junior-high student what the term "under the

table” means, they can tell you. If you ask a senior in high school what the term “voluntary compliance” means, they don’t know. Tax education of the American public stops with the Boston Tea Party. Yet every year we have new taxpayers joining the system via the millions of teenagers who enter the job market. I challenge the IRS to appropriate a portion of their budget to truly educate the public and provide a badly needed sense of history which is currently lacking in the American taxpayer.

To Congress, I ask for a national taxpayer education initiative. A child in the sixth grade is old enough to earn an allowance. Start there. Send representatives, perhaps tax auditors and revenue agents, to speak in our schools, from elementary school up through high school. As a Nation, we must start teaching taxation in history, math, and business courses. But we must teach it. We are currently failing to educate our young people about their rights and responsibilities.

Most Americans don’t even know which President gave us the prototype for the current IRS organization and our system of taxation, nor do they know that the entire system was completely dismantled not once but twice due to corruption. By the way, the President who gave us the IRS was Abraham Lincoln when he created the Bureau of Internal Revenue in 1862, which was completely dismantled in 1872 and later resurrected in 1913. Prior to that, in 1801, Thomas Jefferson dismantled a widely corrupt Federalist system of Internal Revenue, which had been in place less than 10 years, and our country was funded exclusively by the collection of customs duties until the Civil War.

We send police officers, firemen, and other professionals into our schools to give talks in classes and schoolwide assemblies. Why not representatives from the Internal Revenue Service? It is the one thing I would like to see in my lifetime. This is how you avoid the necessity for audits and installment agreements. You start at the beginning.

In summary, IRS, you are the trustees, the guardians of the Internal Revenue Code. It is incumbent upon both management and line employees at the IRS to treat all taxpayers with dignity and parity, for you are the trustees, the guardians of the Internal Revenue Code.

IRS. You must put integrity back into the “I,” for corruption has many faces: lying, racism, retaliation, illegal snooping, unnecessary intrusiveness, excessive collection actions, hit lists, behaving like a secret society. Taxpayers view all of these acts as corrupt.

I often hear people say with great hostility, “How can you work with the IRS? They are a bunch of lying crooks.”

As a former revenue agent, it hurts to hear that. Yet sad to say, I have no quick rebuttal. Integrity throughout the agency must be restored without delay.

IRS. The IRS must put respect back into the “R,” respect for the taxpayer, respect for their rights and the system as it was meant to be. Our taxation system contains a steady balance between taxpayer rights and the authority granted to Service employees. It is lack of respect for the taxpayers which is giving rise to additional legislation as we speak. Respect is one of those things which if you give it, it will be returned to you as well.

IRS. The “S” must stand for solutions. Solutions for the taxpayer which educate, encourage cooperation, and promote an atmosphere which fosters voluntary compliance mean solutions for everyone.

To Congress, we look forward to a continued commitment to restructure the IRS and enact whatever legislation is necessary to protect and further the interests of the taxpayer. To the Internal Revenue Service, we welcome a newly invigorated management which will hopefully inspire and guide the employees who have been entrusted as stewards of the Internal Revenue Code. And we look to the American people who, as taxpayers, must continue their efforts with honesty, responsibility, and, as always, in the spirit of voluntary compliance.

PREPARED STATEMENT

Senator CAMPBELL. Thank you, Ms. Martinez. We have your complete statement and it will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF DORIS MARTINEZ

On behalf of Denver District Taxpayers, I would like to commend Senator Nighthorse Campbell and the Postal/Treasury Subcommittee for holding this most important IRS Field Hearing, the purpose of which is to discuss on-going restructuring issues and potential remedies. With Congressional action still pending on H.R. 2676 we believe the input offered today may be vital in considering certain provisions. For those issues not yet on the table, perhaps future legislation and changes to IRS procedure and policies can provide taxpayer protection and relief.

My name is Doris Martinez and I'm a former IRS revenue agent, Denver District, from 1977 to 1984. I've been in private practice since 1987 and am president of Associated Tax Centre, Inc., specializing in handling IRS problem situations. I have been profiled in articles by the Denver Post, The Denver Business Journal, Accounting Today and also co-hosted a radio talk show during the filing season us 1996. Our topics focused on IRS tactics, abuses, taxpayer rights and responsibilities. I'm an enrolled agent and a member of the National Society of Accountants and National Society of Enrolled Agents.

The testimony offered today is based on my experience and knowledge gained as an IRS employee, taxpayer representative and humble taxpayer.

The issues brought to your attention are wide and varying, but with a common theme—the need for equitable tax procedures and laws; and equitable treatment of all taxpayers by an IRS held accountable for its actions.

I. Taxpayer Advocate and Problem Resolution Program.—Commissioner Rossotti has requested \$10 million to the PRO budget. Until the Office of the Taxpayer Advocate becomes independent in all aspects I believe Congress should deny the request and consider reduction or elimination of the program altogether. The basis for taking this position is my experience in dealing repeatedly with the Denver District Problem Resolution Office with consistently unproductive results and information secured from the Tax Analyst, a non-profit watch dog organization. According to documentation provided by the Taxpayer Advocate and subsequently reported by the Tax Analyst, during a recent three year period, District Problem Resolution Offices handled over 121,000 requests for assistance. Only 82 taxpayers received orders for relief. This is inefficiency at its worse. At the District level, Problem Resolution Officers have no authority to compel action or provide relief. Their purpose is to gather information and submit reports. When a taxpayer submits a request for assistance, the Problem Resolution office refers the case to the appropriate Division and Problem Resolution Program “caseworkers” work the case. In reality these are IRS collection or examination division personnel, assigned to the Problem Resolution Program. These employees have the same attitudes and objectives as their non-Problem Resolution counterparts. Thus, the perspective that each District has a Taxpayer Advocate field office is nothing more than an illusion, a \$40,000,000 illusion.

Solution: H.R. 2676 does not go far enough in providing taxpayers with an independent program with which to resolve hardship cases or previously unresolved issues. An objective Problem Resolution Program is critical to effective taxpayer relief. There is only one Taxpayer Advocate and that position is not autonomous. That

is not enough. Utilization of outside contractors using existing budgets at the District level, specifically enrolled agents, CPA's or tax attorneys experienced in IRS matters is a possible solution. If we accept the premise that both IRS employees and enrolled practitioners outside of the Service are following the same Internal Revenue Code and operational directives contained in the Internal Revenue Manual, then the issue of adversarial relationships between an independent Problem Resolution Office and the IRS is non-existent. Ultimately we all answer to the Secretary, Department of Treasury.

II. Disparate Treatment of Minority Taxpayers.—Our observation is that all taxpayers are not being treated equally. African-American taxpayers are treated the worst with Hispanics running a close second. Examples of abuses are:

(1) Insisting minority taxpayers liquidate their retirement funds or sell their homes in predominately white, upscale neighborhoods when their non-minority counter-parts are granted generous installment agreements, leaving their assets intact.

(2) Refusing to accept that Hispanic males are responsible enough to secure custody of their children and support them, thereby denying the Earned Income Credit when it is rightfully due. Statements made by Service Center employees include "we know how you people cover up for each other." In this situation documentation was requested from a single Hispanic father and timely submitted. The affidavit was provided by another Hispanic surnamed individual, the baby sitter. It was not good enough for the line employee. It took a complaint to the manager to get the information accepted and the Earned Income Credit released.

(3) In yet another instance a revenue officer demanded a family of five children, living at below poverty level, be paraded in front of her and taken back to her work area so she could question them without their father present. They were five to fifteen years old. The revenue officer asked them who took care of them, who cooked for them, where was their mother? Their mother had left them and the littlest one, the five year old, sleepy eyed and somewhat disheveled answered "my mommy doesn't live with us anymore, she doesn't love us. My daddy and my brother take care of me." I was there with them. These children were forced to relive a traumatic and heart breaking event in their life in front of two strangers, the revenue officer and me. All this, to put a taxpayer in currently not collectible status. I don't see these types of demands put upon non-minority taxpayers.

In May 1996 I received a call from a retired IRS tax auditor from Fresno, California. He wanted to know if I had noticed that minority taxpayers were audited more frequently and treated more harshly. This was his experience. He was concerned and angry. Based on that call, my own experiences and recent findings by the GAO regarding Earned Income Credit Issues it appears this is a national issue.

Solution: When a representative from the IRS discriminates against a taxpayer he/she not only insults the taxpayer, but insults me, you, the District Director, the Commissioner and all Americans. The Service has EEO programs and rules which are supposed to be enforced internally. Yet these very issues still exist when dealing with taxpayers, and they have no place to go. I know of few alternatives when dealing with racism. Zero tolerance for disparate treatment of taxpayers under threat of discipline or loss of position should be a Service wide mandate. Other than that there is only one way to deal with racism and that is one employee, one situation at a time. Responsive IRS management which takes swift action to correct the taxpayer's problem and counsel, discipline or fire the offending employee will result in a more effective IRS. This solution does not come so much in the form of a request but rather a demand.

III. Secret Hit Lists and Actions Against Taxpayer Representatives.—While a representative in the Denver District, I saw "Hit Lists of Problem Preparers." In October 1996 my partner and I were advised by current and former IRS personnel that my firm and I were on that list. In September 1997 a Denver District Branch Chief, Examination, verbally confirmed that the District "passes lists around, and during tax season solicits information from revenue agents to find out who's giving them problems so they can put them on the list and conduct surprise field compliance visits." This list is a document and practice that if an outsider asks IRS management will summarily deny exists. It is one of their dirty little secrets. Use of this tactic is used to harass taxpayer representatives and discourage representation.

I know of another taxpayer representative, also on this dubious list, who has been pursued to the point of total disruption of her business and family life. She is a meticulous practitioner, but wound up on someone's bad side at the IRS while representing an audit or collection issue. Both she and her clients have been put through grueling lifestyle audits, all of which have been largely unproductive.

I've mentioned my partner several times. His name was Rudy Maestas. He's not here today because he died in October 1996. The Denver District had been pursuing

us for several years in a relentless and obsessive effort to disbar me or otherwise put us out of business. There were times when we felt like the wrath of 800 IRS employees was upon us and it was frightening to the point where my family feared for my life. The reason for pursuit? "She has influence over taxpayers, she's high profile and former IRS." These statements made by IRS officials, were found in documents secured via the Freedom of Information Act. The FOIA (Freedom of Information Act) documents provided evidence of illegal snooping, forgery, falsified and fabricated documents and repeated District wide disclosure violations, among other things. The Denver District has expended at least \$500,000 and four years pursuing us, a pursuit which is not yet over.

In the middle of all of this, Rudy became so upset, so distraught that he told me, his family and friends, that if anything happened to him to look to the Denver District IRS as the cause of his death. He dropped dead from a heart attack a month later. He was 47 years old. And so, today Commissioner Rossotti and District Director Hutton, I hold this District responsible for whatever you took off my partner's life. Because I'm profoundly deaf, I know what real silence is like. And there is no sound which roars as loudly as the silence of my partner no longer here. Rudy was my partner and best friend. In contributing to Rudy's death this District may have silenced his laughter, but you have not silenced his voice, for today I speak for us both. His death has broken my heart, but not my spirit.

The question still remains though, despite repeated complaints up to the Regional level, why hasn't IRS management asked to see my full documentation? It has been offered more than once. Why haven't you taken action against the guilty parties?

Solution: There are already laws, including the new illegal snooping law, existing disclosure laws which hold IRS employees accountable, the Privacy Act of 1974 and the Freedom of Information Act, all meant to protect the taxpayer, not the perpetrators at the IRS. Yet these laws remain largely ineffective without an independent outside board with full authority to investigate and take action. It is clear the IRS on its own, is not capable of conducting full and objective investigations nor are they taking appropriate corrective action.

"Hit lists" on problem preparers/practitioners are unconstitutional and in violation of the Privacy Act. IRS employees who engage in this practice, encourage it, perpetuate it or stand by and do nothing should all be held accountable and be disciplined or fired.

The practitioners on these lists are entitled to know that their rights have been violated, be given an opportunity to file formal complaints and provisions made for damages or compensation to be paid without litigation. Use of mediators would expedite the process and keep expenditures for all parties at a minimum.

I am mindful of the concerns by Service employees that they may be disciplined or fired without due process. While that is not the suggestion, it does not seem reasonable that the concerns of 58,000 IRS employees should not supersede the concerns and welfare of 200,000 million American taxpayers and their representatives.

IV. Abusive Audits and Lack of Due Process.—There seems to be a growing pattern in which tax auditors and revenue agents conduct audits which are malicious, intrusive and largely unproductive. Most of these audits could be handled via correspondence utilizing the computer matching program. Many times audits shouldn't take place at all or are concluded with grossly erroneous results. Examples:

(1) A recent office audit was conducted on a Form 1040EZ with a potentially omitted W-2 in the amount of \$200. The tax auditor attempted to do a lifestyle audit and demanded the taxpayer provide copies of his parents tax returns and social security numbers. The case was a no change.

(2) A 500 hour field audit which included a national search for assets when in fact the audit could have been accomplished via correspondence using the computer matching program. Cost of the field audit exceeded \$25,000. A correspondence audit would have taken \$2.50, postage included.

(3) The continued practice of denying taxpayers the right to protest unagreed issues, even when a taxpayer has specifically stated he/she wants to protest, remains a problem. Every time Service personnel deny someone the right to protest or appeal, they contribute to the ever increasing problem of taxpayer non-compliance. The hardest thing to do as a representative is to convince a wronged taxpayer that the system will work the next time.

Solution: We should eliminate the majority of tax auditor and revenue agent positions. These folks clearly do not have enough to do. Office and Field audit procedures remain largely archaic and are increasingly intrusive. The purpose of an audit is to ensure that a return is substantially correct as filed. With computerization and the expansion of information returns, most office and field audits are unnecessary. Lifestyle audits must be limited to those circumstances which clearly develop after the initial interview and basic audit procedures have been concluded. An outside

citizens oversight board should be responsible for handling complaints, monitoring abusive practices and holding management and line employees accountable.

V. Penalty and Interest Abatements/Reform.—All penalties contain provisions for abatement or refund if there is reasonable cause. In short, the Internal Revenue Code provides for our humanity. In reality there is no parity as to who receives abatements. It's easier to get a \$100,000 penalty abated for a corporation than it is to get a \$200 penalty removed for an individual. The smaller the taxpayer the more personal it gets, down to whether or not that taxpayer has ever sinned before.

Today we live in a more complex society in which divorce, frequent moves, violent deaths and all manners of bizarre circumstance descend upon a person's life. Abatement procedures and reasonable cause must be updated and expanded to reflect our society. Frequently taxpayers are erroneously told they cannot request abatements until after the full tax has been paid. The current move to make notices more readable is to be commended. We must go one step further and include with every written notice of assessment and demand for payment a simple instruction for requesting abatements of penalties with space for the taxpayer's explanation of circumstances and instructions to attach any relevant documentation they would like considered.

H.R. 2676 contains a provision to suspend failure to pay penalties so long as the taxpayer is making payments, but there is no provision to suspend interest. On going discussions regarding the cost of abating penalties along with expanded innocent spouse provisions, estimate the cost to be at more than \$5 billion. The cost of tax related bankruptcies, which account for up to a third of all bankruptcies, and repeated non-compliance could be avoided and would greatly reduce the \$5 billion loss of revenues. Most taxpayers want to pay their taxes. It is the penalties and interest which frustrate and discourage them the most.

Solution: More realistic policy and abatement guidelines which rely less on the whim of Service employees and are applied consistently, in addition to reform of innocent spouse laws are badly needed. Regardless as to whether it's applied to tax or penalty, taxpayers can pay only so much. Legislation providing for suspension of interest so long as payments are being made should also be considered.

VI. Taxpayer Education and the Internal Revenue Code.—The original Internal Revenue Code was 16 pages long. Today's Code contains over 500,000 words and is still growing. The Taxpayer Relief Act of 1997 alone contains 800 amendments and 300 new provisions. Was America sleeping when we let this get by? To Congress I say what happened?

Americans are obsessed with taxes, yet they don't understand them. If you ask a junior high student what the term "under the table" means, they can tell you. If you ask a senior in high school what the term "voluntary compliance" means, they don't know. Tax education of the American public stops with the Boston Tea Party. Yet every year we have new taxpayers joining the system via the millions of teenagers who enter the job market. I challenge the IRS to appropriate a portion of their budget to truly educate the public and provide a badly needed sense of history which is currently lacking in the American taxpayer. To Congress I ask for a National Taxpayer Education Initiative. A child in the 6th grade is old enough to earn an allowance. Start there. Send representatives, perhaps tax auditors and revenue agents, to speak in our schools, from elementary school up through high school. As a nation we must start teaching taxation in history, in math or business courses—but we must teach it. We are currently failing to educate our young people about their rights and responsibilities.

Most Americans don't know which President gave us the prototype for the current IRS organization, and our system of taxation, nor do they know that the entire system was completely dismantled not once but twice due to corruption. By the way, the President who gave us the IRS was Abraham Lincoln when he created the Bureau of Internal Revenue in 1862, which was completely dismantled in 1872 and later resurrected in 1913. Prior to that, in 1801 Thomas Jefferson dismantled a widely corrupt Federalist system of Internal Revenue, which had been in place less than 10 years, and our country was funded exclusively by the collection of Customs Duties until the Civil War.

We send police officers, firemen and other professionals into our schools to give talks in classes and in school wide assemblies. Why not representatives from the IRS? It is the one thing I would like to see in my lifetime. This is how you avoid the necessity for audits and installment agreements. You start at the beginning.

VII. Summary—IRS, you are the trustees, the guardians of the Internal Revenue Code.—It is incumbent upon both management and line employees at the IRS to treat all taxpayers with dignity and parity, for you are the trustees, the guardians of the Internal Revenue Code. IRS. You must put integrity back into the "I," for Corruption has many faces; lying, racism retaliation, illegal snooping, unnecessary

intrusiveness, excessive collection actions, hit lists, behaving like a secret society. Taxpayers view all of these acts as corrupt. I often hear people say with great hostility, "How can you work with the IRS, they are a bunch of lying crooks." As a former revenue agent, it hurts to hear that, yet sad to say I here no quick rebuttal. Integrity throughout the agency must be restored without delay. IRS. The IRS must put respect back into the "R", respect for the taxpayer, respect for their rights and the system as it was meant to be. Our taxation system contains a steady balance between taxpayer rights and the authority granted to Service employees. It is lack of respect for the taxpayers which is giving rise to additional legislation as we speak. Respect is one of those things which if you give, it will returned to you as well. IRS. The "S" must stand for Solutions. Solutions for the taxpayer which educate, encourage cooperation and promote an atmosphere which fosters voluntary compliance mean solutions for everyone.

To Congress, we look forward to a continued commitment to enact whatever legislation is necessary to protect and further the interests of the taxpayer. To the IRS we welcome a newly invigorated management which will hopefully inspire and guide the employees who have been entrusted as stewards of the Internal Revenue Code. And we look to the American people who as taxpayers must continue our efforts with honesty, responsibility and as always in the spirit of voluntary compliance.

ANTIBROWSING BILL

Senator CAMPBELL. That was a very detailed and well-spoken testimony. Bashing the IRS has become almost a national pastime, as you probably know, and I was particularly interested in your testimony because you offered a number of suggestions and solutions.

Let me get a couple of things first, though. You mentioned one audit, and as I did some quick arithmetic up here—Ricardo did it for me—you were saying basically that one audit cost 500 hours in time and \$25,000 to collect \$200. Is that correct?

Ms. MARTINEZ. The audit is currently under progress. I computed that 500 hours—does anybody have a calculator here? I believe I used a \$50-per-hour rate on that.

Senator CAMPBELL. I see. OK.

Ms. MARTINEZ. Man-hours. So that is 500 hours. Totally unnecessary. They could have done it via the computer matching program. I guess my question is: What are we doing with the computerization program? What is the purpose of all these 1099's?

Senator CAMPBELL. Well, we ask the Commissioner.

Ms. MARTINEZ. They are designed to save money. We are not doing it.

Senator CAMPBELL. You also alluded to what you called the snooping bill. We call it the browsing bill, the antibrowsing bill. In fact, it was my bill that was passed last year when a number of IRS people were caught browsing with no probable cause through the tax returns of sometimes family, sometimes famous movie stars or athletes, sometimes just their enemies.

Before we passed that bill, it was already illegal to use that information, but it wasn't illegal just to do the snooping. That is now. Unfortunately, it is only a misdemeanor, but at least it is illegal.

You also spoke about a number of documents. If you have those on file—I noticed your testimony was very complete. If you would give the committee a copy of all that documentation that you accumulated, I would like to include that in the record, too.

And I was particularly interested in your comments about educating people about taxes, how it came about, that we have to accept this responsibility. That is all great. But you spoke mostly

about the schools and youngsters, but they are not the ones who pay their taxes. It is their parents.

How would you suggest we educate the adults, the ones that are actually paying the taxes?

Ms. MARTINEZ. I believe the media can be a big help in that regard. We see all kinds of television spots and commercials on don't do drugs, antiviolenence. Television, radios, and newspaper public service announcements can help the rest of us get caught up and help us to become better taxpayers and make compliance just a little easier.

Senator CAMPBELL. OK. I thank you very much for your testimony.

Now we will go to Kenneth Tuchman, and I apologize not recognizing you at first, but I remember now meeting you several times in Washington. Thank you for appearing today. If you would like to go ahead and proceed?

STATEMENT OF KENNETH TUCHMAN

Mr. TUCHMAN. Good morning, Mr. Chairman. My name is Kenneth Tuchman. I am the founder and president of TeleTech Holdings, the Nation's leading provider of outsourced customer care management services. I would like to thank you and the committee for providing me with the opportunity to testify here today.

While I can't offer solutions to all of the serious problems so well expressed by the last panel, I hope that I can shed some light on some exciting opportunities the IRS might pursue to enhance your customer care capabilities.

To do so, I would like to outline TeleTech's partnership with the U.S. Postal Service and describe the benefits that we believe our public-private partnership has brought to this public institution. In addition, I would like to explain why private sector companies such as TeleTech can bring new technology and innovative solutions to other Government entities, including the Internal Revenue Service.

Americans, regardless of their perspective on the scope of Government, expect public agencies to serve the citizens of our country as effectively as possible. Without a doubt, this is the goal of our Nation's dedicated public work force as well. We believe that the experience and core competencies of TeleTech and other similar firms in servicing customers in the private sector is applicable to servicing public sector customers as well.

First, I would like to provide some background on TeleTech to give our partnership with the Postal Service some perspective. I founded TeleTech in 1982 with one goal: To provide outsourced customer care solutions to corporations and corporation-like entities.

What is driving the need for business today? Well, to begin with, customers are less loyal, more demanding, than ever before. They measure service excellence in ways dramatically different than they did just a few years ago. They point and click to find information, shop freely at 4 a.m., and expect instantaneous responses to even the most complex questions. Today, the information age is affecting every aspect of a company's ability to acquire, keep, and manage customers.

TeleTech serves the customer care management needs of large global companies such as GTE, Microsoft, AT&T, United Parcel

Service, to name a few. All of our clients have one thing in common: They have a strategic and competitive need for customer service excellence. Yet because creating a best-in-class customer care operation requires vast capital resources, ever-changing technology, and a whole new infrastructure, they choose to outsource the function to companies like TeleTech.

Clients create and implement customized strategies that combine the best of our abilities with theirs. While strategies for each client differ significantly, one goal is always the same: Customer satisfaction that translates into long-term customer relationships. Our clients know that over the long run, satisfied customers mean greater competitive strength, increased efficiency, and certainly reduced overall costs.

It is our view that this approach translates well into the public sector. Ideally, public sector institutions would focus on long-term relationships with their citizen-customers based on satisfaction and responsiveness, which can only come from single interaction resolutions to even complex inquiries. Over the long run, this would not only improve their cost structure and revenue collection capabilities due to efficiencies gained, it would also enhance their image. Perhaps most importantly, it would enable them to deliver what citizens are entitled to expect: Expedient, responsive, and effective interactions with Government entities that serve them.

As you will see, this approach is enhancing the Postal Service's ability to deliver just that to its customers.

The most relevant example of benefits of a partnership between the public and private sectors can be found in our Denver National Service Center where 600 TeleTech employees manage 65,000 customer inquiries for the U.S. Postal Service every day.

In 1996, TeleTech responded to a Postal Service request for proposal. After a rigorous competitive bidding process, we were awarded the contract in September of that year to establish the first of six national service centers. Prior to the establishment of this network of national service centers, whenever the American public called the U.S. Postal Service, calls were directed to their local post office. Often this meant that calls were simply unanswered as local staff were busy at the counter or simply did not have the tools or information to be able to answer specific inquiries. This reflected poorly on the Postal Service's commitment to universal service for all.

TeleTech began handling calls for the USPS Pacific and Colorado region on November 28, 1996. We have managed this program during regular seasons and throughout the peak-season volumes experienced during Christmas as well as during tax seasons. We have established a separate subsidiary with dedicated management and staff whose only duty and responsibility is serving the U.S. Postal Service and its customers.

This has been a successful partnership which has married the best of the private and public sectors. Together, we have established what is in my opinion one of the world's finest examples of best-in-class customer care. TeleTech could not have achieved this result on its own, and neither, I would suggest, could the U.S. Postal Service. This level of performance, in such a short timeframe, is achieved only through an open, honest partnership.

Upon this bedrock, TeleTech and the Postal Service have built solutions to deliver across-the-board service level improvements, ensuring that the American public's calls are answered accurately every day of the week, 24 hours a day. We work together to constantly improve the quality of our work, meeting frequently not only with our corporate counterparts at the USPS but also with local post office staff, to ensure that our definition of quality is one and the same. This attention to detail will lead to overall improvement in customer service ratings for the entire organization.

Because TeleTech provides the people, processes, management, and undiluted focus on delivering world-class customer care, while the Postal Service provides the infrastructure and capital, our partnership allows the Postal Service to focus on doing what it does best: Delivering the mail. Simultaneously, the Postal Service is able to greatly improve both the service levels and accessibility Americans experience in interacting with this Government institution. In many ways, our partnership is helping to break down the invisible barriers that many Americans perceive stand between themselves and the public organizations that serve them.

I believe that there are many areas of emulation in our successful public-private partnership with USPS that might be applicable to new approaches for the IRS.

We all recognize the challenges faced by the IRS and applaud the commitment of its dedicated employees to deliver quality service. Sometimes, however, it is simply not enough to strive for excellence when the tools provided obstruct your ability to deliver accurate information to average taxpayers. It has been well documented that the current IRS computer and information delivery systems are the source of many service failures. In short, although IRS employees work long hours and are both dedicated and professional, structural and technological deficiencies hinder their efforts, resulting in inconsistent service quality and frustration for millions of taxpayers across our Nation.

I know that the IRS is taking steps to address this technology deficiency with their current tender for a prime contract and the announced short list of Lockheed Martin and Computer Sciences Corp., both excellent companies. The enormity of this project is mind-boggling. I wish Mr. Rossotti and his team the very best and welcome the agency's renewed commitment to providing employees with the tools they need to deliver the kind of service we taxpayers demand.

However, when reviewing large-scale technology projects of this nature, I immediately think of the individuals who answer the phone—the people who are providing the human face of the agency. Technology is never a magic bullet. The human interface is clearly a crucial element in reinventing the IRS.

In the headlong rush to provide innovative technology, the customer service agent is often the last to be considered, and in many cases, this results in alienation and distrust on the front lines. And despite all technology improvements and money, the implementation fails to meet its objectives.

But it need not be so.

The typical customer service agent answers up to 25 calls per hour 8 hours a day. This is a tough job. To enact change in this

environment without impacting morale is not easy, and waiting 3 to 4 years for the technology fix to arrive is clearly not an option.

The impact of technology in a customer service environment can be dramatic, but it is also possible to make dramatic changes to current processes—to apply short-term fixes, if you will, which can provide immediate service improvements. We would propose such a solution for the IRS, one that incorporates the people side of the equation.

My suggestion is to blend the best of the private and public sector, establishing a private sector test-bed communication center, which would serve as a laboratory for innovative process change. Let new ideas and processes be first tested in an environment which embraces change. Once these innovations have been demonstrated to work and are successful, export them to every IRS communication center and quickly improve the effectiveness of the entire enterprise. Because the changes tested here will affect them the most, it may make sense that current IRS employees actually staff this center.

In one sense, the establishment of such a center is business consulting in its purest form. Because your private sector partner would be in the trenches with your staff, suggestions for improvement can immediately be tested, proven, and implemented. Let the private sector see and feel some of the burden carried out by the frontline staff of the IRS.

The goals of this type of outsourcing partnership are similar to those you are undertaking now: Rapid improvement without losing the knowledge and commitment of current staff.

Finally, I submit that this private sector communication center could also serve as the test bed for the new technology systems that are to be delivered under the current IRS prime contract for technology. It would be important to separate this initiative from the larger technology development effort, using it exclusively as an independent testing center.

Although the private sector is different from the public sector, one basic principle remains the same: Our client's core competency is not customer service. When a large institution's core competency is not customer service but desires for such competency exists, such as with the IRS, it only makes sense that that institution seek the assistance of a company whose only focus is customer service. In such instances, public-private partnerships are ideal.

Customer service companies such as TeleTech have succeeded with such arrangements for a wide range of companies. For example, TeleTech provides Microsoft with technical support, product support, and registration of all of its products. We also provide the United Parcel Service with tracing and tracking of virtually all of their packages. We also provide GTE with service on local, long-distance, Internet, and wireless service, just to name a few examples. In addition to the IRS, we believe that similar services can be provided to other Government bureaucracies as well. Solutions are inherent in partnerships.

TeleTech is proud of its partnership with the Postal Service and is excited about innovation at the IRS. We hope our fully customer-centric approach, technology- and people-based solutions can be of

help to this committee as you explore changes at the IRS. Together, we believe there is a real reinvention potential.

I want to reiterate my personal commitment to make myself or my employees available to help your efforts in any way. Thank you, Mr. Chairman, for inviting me to be a part of this important process.

PREPARED STATEMENT

Senator CAMPBELL. Thank you, Mr. Tuchman. We have your complete statement and it will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF KENNETH TUCHMAN

INTRODUCTION

Mr. Chairman, I am Kenneth Tuchman, founder and President of TeleTech Holdings Incorporated, the nation's leading provider of outsourced customer care management services. I would like to thank you and the Committee for providing me the opportunity to testify here today.

I hope I can shed some light on some exciting solutions and opportunities the IRS might pursue to enhance your customer care capabilities. To do so, I'd like to outline TeleTech's partnership with the United States Postal Service and describe the benefits that we believe our public-private partnership has brought to this venerable public institution. In addition, I would like to explain why a private sector company such as TeleTech can bring new technology and innovative solutions to other well-established government entities, including the Internal Revenue Service.

Americans, regardless of their perspective on the scope of government, expect public agencies to serve the citizens of our country as effectively as possible. Without a doubt this is the goal of our nation's dedicated public work force as well. We believe that the experience and core competencies of TeleTech and other similar firms serving customers in the private sector is applicable to servicing public sector customers as well.

TELETECH'S BACKGROUND

First, I'd like to provide some background on TeleTech to give our partnership with the Postal Service some perspective. I founded TeleTech in 1982 with one goal: to provide outsourced customer care solutions to corporations and corporate-like entities. Today, TeleTech serves the customer care management needs of large global companies such as GTE, Microsoft, AT&T, and UPS. All of our clients have one thing in common; they have a strategic and competitive need for customer service excellence. Yet because creating a best-in-class customer care operation requires vast capital resources, ever-changing technology and whole new infrastructures, they choose to outsource the function to companies like TeleTech.

In essence, we help our clients acquire, serve and retain their customers by managing inbound telephone, Internet and PC-based video inquiries on their behalf.

More specifically, TeleTech has 18 customer communication centers located throughout the United States, United Kingdom, Australia, New Zealand, Mexico and Canada. These centers have over 7,100 state-of-the-art computer workstations, which are used by greater than 9,000 highly trained customer care professionals in managing millions of customer inquiries even week.

We invest a great deal in our front line employees, who represent a wide range of experience and talents, from entry level customer service personnel to senior technical support specialists and registered nurses. We empower our employees with cutting-edge training and the latest desktop tools for delivering world-class customer care.

Every industry is different, and therefore, customer service firms like TeleTech perform unique services for every company we serve. In each instance, we help our clients create and implement customized strategies that combine the best of our abilities with theirs. While strategies for each client differ significantly, one goal is always the same: customer satisfaction that translates into long-term customer relationships. Our clients know that over the long run, satisfied customers mean greater competitive strength, increased efficiency and certainly reduced costs.

It is our view that this approach translates well into the public sector. Ideally, public sector institutions would focus on long-term relationships with their citizen-

customers based on satisfaction and responsiveness. Over the long run, this would not only improve their cost structure because they become more efficient, it would also enhance their image. Perhaps most importantly, it would enable them to deliver what citizens are entitled to expect: expeditious, responsive and effective interactions with the government entities that serve them.

As you'll see, this approach is enhancing the Postal Service's ability to deliver just that to its customers.

TELETECH'S PARTNERSHIP WITH THE UNITED POSTAL SERVICE

The most relevant example of the benefits of a partnership between the public and private sector can be found in our Denver East facility, where 600 TeleTech employees manage customer inquiries for the United States Postal Service every day.

In 1996, TeleTech responded to a Postal Service Request for Proposal. After a rigorous competitive bidding process, we were awarded the contract in September of that year to establish the first of six National Service Centers. Prior to the establishment of this network of National Service Centers, whenever the American Public called the USPS their calls were directed to their local post office. Often this meant that calls were simply unanswered as the local staff were busy at the counter, or simply did not have the tools or information to be able to answer specific inquiries. This reflected poorly on the USPS's commitment to universal service for all.

TeleTech began handling calls for the USPS Pacific and Colorado region on November 28, 1996, including the peak volumes experienced at Christmas and during tax season. We have established a separate subsidiary with dedicated management and staff whose only duty and responsibility is serving the USPS and its customers.

This has been a successful partnership which has married the best of the private and public sectors. Together, we have established what is in my opinion one of the finest examples of a best-in-class customer communication center in the world. TeleTech could not have achieved this result on its own and neither, I would suggest, could the U.S. Postal Service. This level of performance, in such a short time frame, is achieved only through an open, honest partnership.

Upon this bedrock, TeleTech and the USPS have built solutions to deliver across-the-board service level improvements, ensuring that the American public's calls are answered accurately every day of the week, 24 hours a day. We work together constantly to improve the quality of our work, meeting frequently not only with our corporate counterparts at the USPS but also with local post office staff, to ensure that our definition of quality is one and the same. This attention to detail will lead to an overall improvement in customer service rates for the whole organization.

Because TeleTech provides the people, processes, infrastructure, technology management and undiluted focus on delivering world class customer care, our partnership allows the Postal Service to focus on doing what it does best: delivery the mail. Simultaneously, the Postal Service is able to greatly improve both the service levels and accessibility Americans experience in interacting with this government institution. In many ways, our partnership is helping to break down the invisible barriers that many Americans perceive stand between themselves and the public organizations that serve them.

I believe there are many areas of emulation in our successful public-private partnership with the USPS that might be applicable to a new approach for the IRS.

IRS CHALLENGES

We all recognize the challenges faced by the IRS and applaud the commitment of its dedicated employees to deliver quality service. Sometimes, however, it is simply not enough to strive for excellence when the tools provided obstruct your ability to deliver accurate information to the average taxpayer. It has been well documented that the current IRS computer and information delivery systems are the source of many service failures. In short, although IRS employees work long hours and are both dedicated and professional, structural and technological deficiencies hinder their efforts, resulting in inconsistent service quality and frustration for millions of taxpayers across our nation.

I know that the IRS is taking steps to address this technology deficiency with their current tender for a Prime Contract, and the announced short-list of Lockheed Martin and Computer Sciences Corporation, both excellent companies. The enormity of this project is mind boggling. I wish Mr. Rossotti and his team the very best, and welcome the agency's renewed commitment to providing employees with the tools they need to deliver the kind of service we taxpayers demand.

However, when reviewing large scale technology projects of this nature, I immediately think of the individuals who answer the phone—the people providing the

human face of the agency. Technology is never a magic bullet. The human interface is clearly a crucial element reinventing the IRS.

In the headlong rush to provide innovative technology, the Customer Service Agent is often the last to be considered. In many cases this results in alienation and distrust on the front-lines, and despite all technology improvements and money, the implementation fails to meet its objectives.

But it need not be so.

The typical customer service agents answer up to 25 calls per hour eight hours a day—this is a tough job. To enact change in this environment without impacting morale is not easy and waiting three to four years for the technology fix to arrive is not an option.

The impact of technology in a customer service environment can be dramatic, but it is also possible to make dramatic changes to current processes—to apply short-term fixes if you will—which can provide immediate service improvements. We would propose such a solution for the IRS, one that incorporates the people side of the equation.

My suggestion is to blend the best of the private and public sector establishing a private sector test-bed taxpayer communication center, which would serve as the laboratory for innovative process changes. Let new ideas and processes be first tested in an environment which embraces change. Once these innovations have been demonstrated to work and are successful, export them to every IRS call center and quickly improve the effectiveness of the entire enterprise. Because the changes tested here will affect them the most, it may make sense that current IRS employees staff this center.

In one sense, the establishment of such a center is business consulting in its purest form. Because your private sector partner would be in the trenches with your staff, suggestions for improvement can be immediately tested, proven and implemented. Let the private sector see and feel some of the burden carried by the front-line staff of the IRS.

The goals of this type of outsourcing partnership are similar to those you are undertaking now: rapid improvement without losing the knowledge and commitment of current staff.

Finally, I submit that this private sector call center could also serve as the test bed for the new technology systems that are to be delivered under the current IRS Prime Contract for technology. It would be important to separate this initiative from the larger technology development effort, using it exclusively as an independent testing center.

CONCLUSION

Although the private sector is different from the public sector, one basic principle remains the same: our client's core competency is not customer service. When a large institution's core competency is not customer service but the desire for such competency exists, such as with the IRS, it only makes sense for that institution to seek the assistance of a company whose only focus is customer service. In such instances, public-private partnerships are ideal.

Customer service companies such as TeleTech have succeeded with such arrangements for a wide range of companies. For example, TeleTech helps Microsoft register services for software seminars. For UPS, we track and trace parcel packages. For GTE we provide a massive customer service effort that combines the selling and servicing of a variety of their products under one customer service umbrella. In addition to the IRS, we believe that similar services can be provided to other government bureaucracies as well. Solutions are inherent in partnership.

TeleTech is proud of its partnership with the Postal Service and is excited about innovation at the IRS. We hope our fully customer-centric approach, technology and people-based solutions can be of help to this committee as you explore change at the IRS. Together, we believe there is real re-invention potential.

POSSIBLE PILOT PROGRAM

Senator CAMPBELL. Ms. Martinez, I might tell you that I am going to ask staff to look into the possibility of doing a pilot program that you suggest that would be administered by the IRS. Last year—as you might know, this committee deals with the budgets of a number of agencies, and one of them happens to be the Bureau of Alcohol, Tobacco and Firearms [ATF], and the drug czar's budget, too. And last year we put quite a bit of money into a national

program to try to educate youngsters about the dangers of drugs that seems to be going very well. We also, obviously, try to do this with a revenue-neutral budget so that we don't have to raise taxes to do it, and sometimes that is difficult because we have to try to find other money in the discretionary part of our whole budget. But I think it is worth exploring.

I just want you to know that we are going to at least look into the possibility of doing that.

Ms. MARTINEZ. I appreciate that. Thank you.

Senator CAMPBELL. Ken, let me ask you just a couple of questions. Basically, what you are suggesting is that the IRS enter into a public-private partnership, as the Postal Service has. Is that right?

Mr. TUCHMAN. That is correct.

Senator CAMPBELL. I would guess that, considering we are really dealing with a problem now of up-to-date IRS technology, we do not have that in the private industry because they would go broke if they don't keep up to date. They can't compete. And if they can't compete, they lose market share and all the rest of it happens, unlike the Federal Government that doesn't have to compete. So it might be a good idea.

Has it been mutually beneficial for both the Postal Service and for you as a company?

Mr. TUCHMAN. It has been extremely beneficial.

Senator CAMPBELL. We haven't heard anything from the Postal Service one way or the other, frankly.

Mr. TUCHMAN. From the Postal Service's perspective, they have dramatically increased service that was not previously available. People were forced to wait in line 25, 30 minutes to have simple questions answered. Now, simply through the telephone or through the Internet, they are getting their answers, which are being responded to within seconds. And the program is now being rolled out all across the Nation.

Senator CAMPBELL. Well, I notice in your written testimony, you have 18 customer communication around—everywhere, the United States, United Kingdom. It lists a number of computer workstations and so on.

What areas in the United States are your company?

Mr. TUCHMAN. Today, TeleTech has 13 facilities in the United States, and then 5—

Senator CAMPBELL. In 13 cities you have these things set up?

Mr. TUCHMAN. Right. We are in locations like South Carolina, West Virginia, New York, Pennsylvania. We are right here in Colorado—we are one of the larger employers in Colorado—California, et cetera. We are also in five countries outside the United States.

Senator CAMPBELL. Have you made any proposals to the IRS or any other agency besides the Postal Service?

Mr. TUCHMAN. No; we have not. We have had some preliminary meetings with the IRS just to let them know that our services, in fact, exist.

Senator CAMPBELL. As I understand it, the IRS—I might be corrected on this, but as I understand it, they have, you know, waves. They are very busy in the spring and less busy in the fall.

Mr. TUCHMAN. Correct.

Senator CAMPBELL. Do you think private industry can deal with that easier?

Mr. TUCHMAN. Well, I think when you look at—if you just take the United Parcel Service or the Postal Service as an example, they have identical waves.

Senator CAMPBELL. That is right. Christmas and—

Mr. TUCHMAN. Christmastime and tax season are their two busiest times.

I think it is also important to note that these organizations that have chosen this public-private—that have chosen to do outsourcing, in many cases the savings are in the hundreds of millions on an annualized basis.

The other thing is that we are finding that the employee turnover is dramatically reduced because the employees are less frustrated because they actually have proper systems to do their job and do their job properly.

So what we are proposing here is really a test bed, a laboratory that the IRS would be able to actually sample a relationship between public and private sectors.

Senator CAMPBELL. I suppose there are some problems when you talk about replacing some of the people in the Federal work force. You can't just fire them. Unfortunately, sometimes you can't. You have to move them around and find other places for them under Federal law.

Mr. TUCHMAN. Well, our goal actually would not be to replace the existing workers. We believe that they actually have a lot of value that they can provide. Our goal would actually be a partner in managing and providing technology and facilities, et cetera, to be able to off-load these existing employees, and then potentially create new position opportunities available where there is more of the repetitive-type transactions that people are having to sometimes wait quite a bit of time just to get answers on some of the simpler questions that they ask.

Senator CAMPBELL. OK. I thank you both for your testimony and appreciate you being here.

Mr. TUCHMAN. Thank you.

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

STATEMENT BY HON. CHARLES O. ROSSOTTI, COMMISSIONER

INTRODUCTION OF WITNESS

Senator CAMPBELL. And now we will go to the gentleman that I am sure many of us have been waiting to hear, the Commissioner himself, Mr. Charles Rossotti.

Well, Commissioner, you have heard some interesting suggestions, bordering on go jump in the lake to some very positive ones, too. I noticed your staff person was over there taking notes. I hope it has given you some ideas, as well as the ideas you have gained from the other hearings you have done around the country or you have been at around the country. And I certainly want to thank you for being here.

Why don't you go ahead with your testimony? I would like to ask you a few questions on behalf of some of the people who have testified.

COMMISSIONER ROSSOTTI'S STATEMENT

Mr. ROSSOTTI. I will try to be brief and just hit the high points, Mr. Chairman, and provide time for questions. But, first, I just want to thank you for inviting me to be here and allowing me to participate and listen to the problems that many of your constituents here in Colorado obviously have. As you know, I have only been Commissioner for a relatively few months, and one of the reasons I took the job, having come from the private sector myself, is that I certainly was aware from personal experience, as well as the experience of many colleagues and friends, of some of the problems that people have in dealing with the IRS. And so I felt that since we do need, as you observed, some form of an agency to collect taxes, if we were going to have such an agency, we ought to do a better job than we were doing in serving the taxpayers who are paying the taxes. So that is the reason I took the job.

As I think you know from some of my previous testimony, the basic thing that I said right at the beginning that I thought we needed to do was to simply change the whole focus of the agency. I think the agency has done a good job of operating an enormous operation and processing an enormous amount of data, certainly collecting 95 percent of the Government's revenues. But it has not always done that in a way that has been responsive to the needs of the taxpayers. And if we are going to do that, we have to turn the whole thing around and try to look at things through the eyes of the taxpayers. That is why I have been traveling around for the last several months to talk to people who are having problems as well as making suggestions for the agency. And this is, as we cer-

tainly heard today, not always a pleasant picture, and some of the things that we hear certainly are very difficult problems that will not be solved easily. But we have to listen to these kinds of problems if we are going to effect real change at the IRS, which is actually what I hope we will do.

Let me just make a couple of comments about some of the things that came out in your panels, and then I would like to just talk a little bit more broadly about some of the ways that we are going to try over time to deal with some of these issues.

First of all, I just want to reiterate what you said, Mr. Chairman, that any witness who came here today or, in fact, to any congressional committee need not fear retaliation. As long as I am Commissioner, I will personally provide that assurance that anybody who wants to give us this kind of input, regardless of how critical it might be, is certainly welcome to do it and will not suffer anything as a result of that.

Second, just with respect to the cases and some of the issues, the specific issues that were raised today, I have certainly listened carefully to these, and as you have noted, we did have some IRS people here taking notes so we can follow up. And I think there are three things that we will specifically do. One is that the District Director, Mr. Hutton, is here and I am going to ask him to give me a special report on all the matters that came up today that are within this district. I think most of them are within this district.

More particularly, though, those taxpayers that have open cases and issues that are still unresolved, we are going to ask a person from the Taxpayer Advocate's Office to take a special interest in each of those cases and follow them through to the point where they can be resolved, or at least explained as clearly as possible to the people involved. And, third, there were a couple of matters that were quite serious allegations, if I heard them correctly, and we will, independently of the district, have some investigations done of those matters to see what we can learn, because we do want to follow up on any of these things that may have been really improper. So we will take those particular actions on the specific things that were discussed today in the hearing.

I also want to make a special comment about the innocent-spouse problem. I only began to learn about this a few months ago, and I have to say that I think that this innocent-spouse problem is one of the more disturbing things that I have learned about since I have gotten here. It really is quite unfair. There is just no doubt about that. And I wish that we had it within our power within the IRS to provide a complete solution to this. As I have learned, we do have the ability to take some action to do better than we have done so far, but we don't have full authority; and that is why in the law that is currently being considered there are additional provisions in there that I think will correct the problem. We will certainly work with the committees to make that happen.

In the meantime, some of the things that we are doing on this innocent-spouse problem are first of all, basically to simply make sure that the authority that we do have to provide relief to innocent spouses is actually made available to those people who qualify. Frankly, it had not been a good process and sometimes people who had the right to receive certain relief were not getting it. So we are

at least taking action on that score. We have set out a new specific form that just went out on our website. It is being printed right now on paper. So that will be out there, and we have set up a special group in Cincinnati to process these forms to make sure that the particular kinds of things that have to be considered in these cases will be taken care of.

We are also trying to do some broad training of our employees to recognize these kinds of innocent-spouse cases, even if the taxpayers themselves are not aware of it. So we are doing some special training in that regard, and we hope that very soon some of the operators on our 800 number will be aware of this.

We are also working with some local organizations in different parts of the country that work with spouses that may be abused to make sure that their network is aware of some of these procedures. So this is what we are doing, and I don't believe that it is in any way sufficient, but it is certainly better than what we had before. And I think with the help of the new legislation, Mr. Chairman, that you alluded to, we can solve this problem really once and for all.

Let me also now mention a couple of things, and I won't go through a long laundry list because I know you want to have time for questions and some other comments, but there are some things that we are attempting to do in the very near term to provide better service to taxpayers and to deal with some of these more difficult kinds of situations that come up.

One of the most basic ones, as the gentleman who just testified mentioned, is phone service. It is important that people be able to get through on the phone. In many of our cases, people are not just getting through on the phone to ask a simple question. They are getting through because they may have gotten a notice or a deficiency statement that they have a question about or where they are being asked to pay money and they have a question about that. It is certainly vital that people be able to get through to somebody when they have that kind of situation, as well as to just ask normal questions about the tax law.

When I looked at the data, Mr. Chairman, 2 years ago the situation was such that people were getting notices saying you may owe money or they may have had a question, and the chances of getting through on the phone to the IRS were very, very minimal. They were really very, very low. This, of course, is an extraordinarily frustrating and unacceptable situation.

In this filing season that we are just completing, there was a considerable effort that was underway partially before I got there, to at least improve it, not to the level that the private sector delivers but certainly dramatically improve it. And so far this season, if you look at it the way the private sector measures it, we are answering about 75 percent of the calls, which is still not good enough, but it is a whole lot better than way down there where it was. That means there are about 14 million fewer busy signals that people are getting this season.

Second, on the more difficult kinds of cases that some of your constituents describe today where they have gone on for a long period of time and haven't been resolved, we have had a number of open houses that we call problem-solving days around the country.

We are having them in various cities. The first one here in Denver, I think, was on the 15th of November, and then there have been ones in other cities around the country and in Colorado as well. I think there is another coming up in May. And these have actually been reasonably successful, I would say quite successful, in fact, for those taxpayers who have come in with a particular problem. They have been able to meet face to face with a person. We have had everybody there, and I think we have gotten about 90 percent of these cases cleared away and have gotten very good ratings from our customers that have come in.

That is another thing that we have started new. We have started actually asking customers, taxpayers, what they actually think of the service. We started it with these problem-solving days, and we are now launching a process to eventually ask every taxpayer who interacts with us, even in an examination or a collection action, to actually rate the service that they got. Eventually we will use this as part of our way of measuring performance in the agency. This is, again, going to take some time, but we are started on it.

On the matter of these collection situations, and particularly when very sensitive situations arise, such as seizing someone's home, which is probably the most sensitive thing that you could possibly do, one of the first things that I did when I started to hear about these things is to at least put in place some more rigorous procedures to ensure that there is management review of things like seizures of homes and personal property. We have also given some additional authority to the taxpayer advocate to deal with these kinds of situations.

Finally, let me just mention something that has been covered in the press. It wasn't mentioned here very much today, but certainly an important issue is how the performance of individual employees and managers in the IRS had been measured, particularly those in the compliance functions. We have taken steps to eliminate the use of certain kinds of statistics, such as how much money was collected per person. We want to completely eliminate that from the way that performance is measured in the IRS. That has been done, and it is, I hope, a thing of the past.

We are working on some new ways to measure performance that we think will balance the interest of taxpayers as well as the need to collect taxes. Again, this is not something that we were able to do very quickly—eliminate the unfortunate kinds of statistics. Putting in place the right kind of measures that really measure what we need will take a little longer.

Now, those are just some near-term things, and we will continue to work on those. Let me just finish up by saying that even if we do all those things and we do more of them, I don't think we are still going to produce the IRS that the public expects and deserves. I think if we were to define what it is that the public expects, as I would understand it, we have to meet two standards:

One is that for each and every taxpayer that we interact with in any way, shape, or form, whether it is the simplest thing like providing a form or something as difficult as collecting money when there's a real problem, every single one of those cases should be measured and should be done in such a way that it provides the

taxpayer the most helpful possible service that they can get from us during each one of those interactions.

The second thing I think we need to accomplish is an overall fairness in the way compliance is done so that anybody who is willingly complying, which, of course, as many of your panelists mentioned, is the majority of people, each of those people will not feel that somehow there is someone else over there who is a neighbor or a business competitor who is not complying and putting an unfair burden on them. So we have to look at this whole thing as a fair form of compliance.

Those are really the standards that I think we need to measure ourselves against, and we need to go a long way and make a lot of changes to reach them at the level that we hope. But as you know, in some of my testimony before your committee earlier, Mr. Chairman, just to briefly summarize, I think in the long run there are five big things that we have to do.

One is we have to turn the whole thing around to be much more focused on preventing problems early in the cycle, solving problems with taxpayers early rather than later on getting into as many enforcement actions as we do. And I think the suggestion about more taxpayer education is certainly a good one in that regard.

The second thing is that we need to really organize the IRS in a way that it is focused externally more on helping taxpayers, and there is a large number of diverse taxpayers in this country, from college students who just have a very simple form to file through a phone call, to more complex businesses. I have proposed reorganizing the entire IRS to be focused on different operating units where each would be responsible for each one of these groups. The small business people, for example, would have a group that would just work to help them and work with them throughout the whole cycle of complying with the tax law.

I think the third one, which is very much related to that, is that we do need to streamline internally the way that management roles are defined so that we have a clearer set of responsibility and accountability. Right now the IRS is quite fragmented, as some of your panelists have noted, and that is because it has really evolved over 45 years in a certain way, and I think it is time to rethink that.

I think the fourth one I have mentioned. We need to measure the performance of our employees the right way so that it encourages the right kind of behavior.

And, finally, of course, the big one is we do have to replace the really old technology that we have, and you know, Mr. Chairman, we have come before your committee to ask your help in that. It is a big job, but we will never reach the goal of having the right kind of service or the right kind of fairness with taxpayers with the 30-year-old computer systems that we have in the IRS.

So those are some of the things that I think we need to do long term, and they are not going to be easy to do and they are not going to be quick to do, but I think with your help and the help of others in Congress and, in particular, the bills that are currently going through, I do think we can make progress in this direction.

Thank you for giving me the opportunity to testify, Mr. Chairman.

PREPARED STATEMENT

Senator CAMPBELL. Thank you. And I also thank you for assuring the people that were here on the panel that there would be nothing in the way of retaliation in any way, shape, or form from the IRS and giving that same kind of commitment. We have your prepared statement and it will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF CHARLES O. ROSSOTTI

Mr. Chairman, I want to thank you for the opportunity to appear at this field hearing. I am also very pleased that so many of our customers—the taxpayers in the Denver region—will be expressing their views too, as well as NTEU President Robert Tobias.

As you know, I became IRS Commissioner in November, and one of the first things I set out to accomplish was to change the focus of the IRS. If we are to provide top-quality service to our customers, we must see the agency through the eyes of taxpayers. Sometimes, it may be different, but if we are to effect real change at the IRS—as I am attempting to do—it is a critical first step. So once again, thank you for allowing me to testify today and for the chance to hear what's on our customers' minds.

This morning, I would like to discuss what I am trying to do in both the short- and the long-term to modernize the IRS and provide first-quality service to our customers. But before I begin that discussion, I want to speak to the innocent spouse issues that have been raised today.

We are trying to do all we can to help innocent spouses. This is a very troubling situation, and I wish I could provide a complete and immediate solution. The law limits what I and our employees can do in this area, but we are doing much more to solve this problem.

The Treasury Department announced on February 9 a set of administrative changes to expand innocent spouse relief. We are already beginning to implement these actions. Less than two weeks ago, we put up on our website a new application for an individual seeking innocent spouse relief. New Form 8857 can be found at www.irs.ustreas.gov. We have also expedited printing of the paper version of the form, and it should be available to taxpayers in a matter of days. These forms requesting innocent spouse relief will be sent to Cincinnati, Ohio and processed at that central location by examiners with expertise in innocent spouse cases.

We are also training our employees to better recognize a potential innocent spouse situation, even if the taxpayer is unaware of the potential relief. Special training courses will be developed for our collection and examination personnel. And telephone operators with special training in innocent spouse provisions will be available on our toll-free number: 1-800-TAX-1040.

In addition, we want to reach out to national and local organizations, like those here in Denver, that help abused and battered spouses. They are excellent partners in helping to get out the word about innocent spouse relief. They are also in an excellent position to alert individuals who might qualify for relief to consider the innocent spouse provisions.

I recognize that these measures go only so far, and are far short of what I would like to see. With the help of the new legislation now going through Congress, we will be able to do much more.

One of the IRS' most important responsibilities is to manage a successful filing season, and we are doing so again this year, both nationwide and in Colorado. This season, while total return receipts are about even, our e-file and TeleFile alternative means of filing are up 25 and 26 percent respectively over the same time period last year. Colorado closely tracks these national usage figures. E-file is up 23 percent and TeleFile is up 29 percent in the State; paper returns are down five percent. Colorado's refunds are up six percent and the average refund is \$1,369, up from \$1,274 last year.

As of April 3, 1998, over five million individuals have filed by phone. This spring, small businesses nationwide were also able to file Form 941, Employer's Quarterly Federal Tax Return, over the telephone. This year, we expect over 1.2 million returns to be filed using this option.

Beginning in January 1998, the IRS also expanded telephone service to 16 hours-a-day (7:00 am to 11:00 pm), Monday through Saturday. And starting today, we will be on the phones 24-hours-a-day until midnight the 15th. Next year, during the busiest time of the tax season, there will be phone service 24-hours-a-day, seven

days-a-week. And for those procrastinators who have not even started the process, we will have IRS personnel at the main Post Office tomorrow to help prepare returns. Next year, I would hope they would consider the ease of e-file and TeleFile.

So far this filing season, we have answered nearly 30 million phone calls; including more than 700 thousand in the Rocky Mountain District. Our nationwide overall phone access, as defined by GAO, to telephone assistance has increased from 30 percent in fiscal year 1996 to about 91 percent this season. The Rocky Mountain District, which includes Colorado, also came in at 91 percent. Nationwide that means there have been 14.4 million fewer busy signals experienced by taxpayers.

The IRS also expanded walk-in service hours. During the last six Saturdays of the filing season, over 150 selected IRS walk-in offices were open from 9:00 am to 3:00 pm. On Saturday, March 28 we held EITC Awareness Day across the country, and the last two Saturdays of the filing season were Problem Prevention Days. In the Rocky Mountain District, Problem Prevention Days were held in Denver, Colorado Springs, Cheyenne, Casper, Boise, Billings, Missoula and Salt Lake City.

We also had a number of Problem Solving Days in the Rocky Mountain District that met with great success. On November 15th, we conducted a Problem Solving Day in Denver. Of the 370 total cases presented by taxpayers, 352 have been closed. That's a 95 percent closure rate and we are still working to finish the remaining 18. Our customers were also extremely satisfied with the service they received. In an on-site survey of customers receiving service, we received an average 6.8 rating out of a possible seven. The next Problem Solving Day will be held on May 16 in Denver.

A growing number of taxpayers are also getting the tax information they need from our Internet site, IRS CD-ROM's and our fax system. So far this fiscal year, our Internet site had over 300 million hits. That is about triple over the same period last year. Our fax system traffic is about 70 percent higher than last year. Over 625,000 successful transmissions of tax forms and information have been made by fax.

The IRS, in conjunction with its private sector partners, has also made significant progress toward enhancing electronic payment methods. I was very pleased that our Electronic Federal Tax Payment System made such substantial progress with existing business users that it will not be necessary to impose a penalty on July 1, 1998, as was previously planned. The penalty waiver from July 1, 1998 through December 31, 1998, will extend to those employers first required to use EFTPS on or after July 1, 1997, and that make timely deposits by paper coupons. We think that's good news to many of your small business constituents.

In fiscal year 1997, more than \$655 billion in tax payments was deposited electronically through EFTP, a significant increase over the \$416 billion deposited in fiscal year 1996. As of April 4, 1998, deposits in fiscal year 1998 are already over \$620 billion. Enrollment continues to grow with over 1.8 million taxpayers currently enrolled in the system, of which over 500,000 are volunteers who are not required to use the system. This success is the reason that we have been able to defer the penalty.

For the coming fiscal year, we will pursue a highly-focused initiative to improve taxpayer service through improved clarity of notices, forms and publications, better telephone service, more walk-in service, expanded electronic filing, improved training of customer service representatives, strengthened support for small businesses, increased staffing for the Taxpayer Advocate's office, and the creation of Citizen Advocacy Panels.

As the Chairman is aware, I have also proposed a sweeping modernization of the Internal Revenue Service. Despite the short-term progress we are making, we will only reach our goal of first-quality service to each and every taxpayer through changes in five key areas, each complementing the other.

First, we must implement revamped IRS business practices that will focus on understanding, solving and preventing taxpayer problems. Instead of the historic one-size-fits all agency, we should tailor efforts to taxpayer groups with common needs. College students and retired seniors are but two examples.

Second, we need an organizational structure that serves a segment of taxpayers with similar needs. One potential way to organize the IRS is to divide it into four units, each charged with top-to-bottom responsibility for serving a segment of customers, such as small businesses.

Third, the IRS needs fewer layers of management and the creation of management roles with clear responsibility and accountability.

Fourth, we must measure organizational performance by balancing customer satisfaction, business results, employee satisfaction and productivity. It is important to create a system that positively influences employee behavior.

Fifth, we must take advantage of new technology. IRS' current computer systems cannot support the agency's mission and goals. We desperately need to upgrade our 1960's technology. But building new computer systems to support old business practices and a complex organizational structure will not work. The recently-issued technology modernization blueprint and the new Chief Information Officer organization provide an excellent basis for managing our new technology.

The consulting firm of Booz, Allen & Hamilton will validate the concept for modernization in terms of risk, cost and impact on customers, both external and internal.

In conclusion, I believe we can transform the IRS into an agency dedicated to customer service and working for the taxpayer. We can make it an organization that helps taxpayers meet the obligations imposed by the tax laws while ensuring that compliance is fair. We can do all of this while increasing productivity and shrinking the size of the IRS in relation to the economy. This will take time and investments to modernize technology, business practices and organization. But, with the support of the Congress, I am optimistic that we will succeed.

PUBLIC SERVICE ANNOUNCEMENTS

Senator CAMPBELL. Let me ask you a few questions. I was really interested in Ms. Martinez's idea about public service announcements, if we could find the money. I think our authority is about \$25 billion, and about one-half of that is discretionary. And under, you know, the theory that we are going to have revenue-neutral expenses, we have to find some money somewhere else. But does the IRS do anything along that line now of public service announcements? Not to extol the virtues of the IRS, but to try to tell people the solutions or how they—

Mr. ROSSOTTI. It is very limited, very limited. I think we did a limited amount of that with respect to encouraging people to use electronic filing, which is something that solves everybody's problem because you get more accurate stuff in and that was successful. But I don't think that we have done as much as we could with the whole opportunity to focus earlier in the cycle to educate people. I actually agree with I think it was Ms. Martinez who said that ultimately moving everything up and getting the problems prevented in the first place is the right way to do it. But, no, I don't think we have done much with public service announcements.

Senator CAMPBELL. But if we could do something along that line, you would support that?

Mr. ROSSOTTI. I would support anything that we can do to educate people about how to get their returns filed right in the first place, absolutely.

IRS OUTREACH EFFORTS

Senator CAMPBELL. I also want to apologize that we couldn't get some of the written testimony to you before. The fact is we didn't have some of it until the last minute. But I appreciate you trying to kind of ad-lib some of the answers and deal with them as well as you can.

The IRS has been conducting problem resolution days which provide taxpayers an opportunity to meet the IRS. We have heard of that. You have spoken of that a little bit. But what steps is the IRS taking to reach the people that may not or cannot make it to the problem resolution sites?

Mr. ROSSOTTI. Well, actually, of course, what we really want—is it almost a slogan—is that every day be a problem-solving day. I think that the improved phone service and the increased walk-

in service during filing season are the two most specific things that give you an answer. We have increased the phone service to 16 hours a day, 6 days a week, and the accessibility is up, and the last 2 days of the season, we are actually open 24 hours. Plus the last 6 Saturdays of the filing season, we have had open houses or problem-solving days where people could come in on Saturday mornings, for example, in shopping malls and other places and get service.

So we are trying to reach out where people need the service and give it to them. I think there has been a lot of progress this season, although I would certainly not claim we are anywhere close to where we should be, ultimately.

Senator CAMPBELL. You heard both Ms. Powers and Ms. Morehead. They are classic examples that are faced by the innocent spouse. It is just unbelievable to me that a woman could lose her home because of something her husband did not do or did do. What protections are there currently available?

INNOCENT SPOUSES

Mr. ROSSOTTI. Mr. Chairman, I have to say that when I first learned about this problem, I looked into it and I was rather shocked myself, not having come from the tax law business, to find out that there are really only very, very limited protections. I will say the IRS has not done as good a job even of extending those to people, which is what we are trying to fix. But basically it is only in the case of where there is an assessment that has been made after the return is filed and where it can be shown that the innocent spouse did not really have responsibility for that and there are some other restrictions on it. So it is really quite limited in terms of what the law permits today.

In other words, when the tax return goes in, under the current law, and both spouses sign it, they have that joint and several liability, and that is in the law. And I think we all understand that in some cases that is not right, and that is why we need to change that.

Senator CAMPBELL. Well, under Senator Roth's bill in the Senate Finance Committee, he is trying to fix that, as you probably know.

Mr. ROSSOTTI. I am confident that it will be fixed. There are various nuances of different provisions as to how it would be fixed, but it will certainly give substantially more protection to innocent spouses.

Senator CAMPBELL. It will give spouses relief and allow them to only pay their own taxes. The problem is they are not retroactive. So that means those people who are already caught in this bind, we need to try and work with the people that have already been caught in this spousal problem.

Mr. ROSSOTTI. Yes; we will. As I told you in the testimony, we are doing a lot more to at least reach out and use the authority that we do have. And there are other things that are tangentially related. I think one of the taxpayers mentioned offers in compromise. We do have authority under offers in compromise. We are trying to look at ways of making that more available or at least more—not so much more available, but to have the timeframe that

it takes to do these things be shorter and make it a more practical option for more taxpayers.

Senator CAMPBELL. Well, that section of Senator Roth's bill actually is a good section. I think it is going to be very popular and widely supported. But it won't come online until the 1999 filing deadline, I guess. So I would just hope that you would try to implement that as fast as you can, should it become law, which I assume it will be.

Mr. ROSSOTTI. Yes, sir.

IRS PENALTIES

Senator CAMPBELL. One of the biggest frustrations certainly that taxpayers pay are the penalties. We have heard about that. The penalties go up. Even if they pay off what they owe, the penalties are so much more sometimes they can't even catch up with it. And the documentation to show that they are doing what the IRS has told them to do is sometimes very conflicting. Could you maybe elaborate on that a little bit about the penalties, how you are going to address that?

Mr. ROSSOTTI. Well, again, interestingly enough, Mr. Chairman, one of the things I did before my confirmation hearings was consult with several of the former Commissioners, because they have interesting things to tell you. And to a person, every one of them said that the place you ought to really work on is those penalties; those are not right.

Unfortunately, they have also been studying them for years and have not completely solved the problem because it gets to be complicated. But I think that in the bill, again, that will be before the Senate soon, there are some particular things that I think are going to ameliorate that. One in particular has to do with the failure-to-pay penalty, which occurs when someone has an installment agreement. It would reduce the amount of penalties that would be related to that situation, which is one of the most common ones that causes this buildup of problems that occurs. And right now that is a penalty in a statute, so it is not really up to the IRS to handle that in most cases.

But I think with the new bill, it would deal with that one particular case that is probably for individual taxpayers one of the most onerous and probably the most unfair.

Senator CAMPBELL. One of the most famous cases was that of former boxing champion Joe Louis in the 1950's. He got so far behind in his tax—perhaps you remember that—that he couldn't begin to even pay the penalties, and finally, in fact, Congress passed a special relief bill because he was just getting further and further in debt. But it is unlikely that Congress would pass a relief bill for every single person where the penalties have kind of overburdened them. So we need to do that somewhere in the agency; we need to help that.

Also, according to the information provided by Ms. Powers, she received notification of a tax obligation 5 years after she filed that showed a \$13,000 tax balance owed, and in that 5 years it became \$35,000. She didn't even know the original amount was owed. How could something like that happen?

Mr. ROSSOTTI. Mr. Chairman, I just don't know. I really don't—

Senator CAMPBELL. I know you weren't there, and I am certainly not blaming you for it, because—

Mr. ROSSOTTI. I know. There are these situations. I really don't know. I mean, we will look into that situation.

Senator CAMPBELL. Well, I would hope you would take some steps that people are notified before the interest starts accumulating, because that is just almost unimaginable how it could be 5 years later and get this terrific bill that they had no idea was coming.

Mr. ROSSOTTI. As a matter of fact, in general, that is one of the biggest systematic problems, not necessarily 5 years, but as a general rule, one of the things I have learned that is a very systematic problem at the IRS—and this has much to do with the computer systems as well as other things—is that we are much too slow, much too late, in getting to things such as—

Senator CAMPBELL. Well, one of the sections of Senator Roth's bill, in fact, requires the IRS to notify within 1 year, and I would think that you would support that. But I obviously know, too, that part of this, when you are dealing with 200 million taxpayers, you have got to have the kind of technology that allows you to get ahead of the curve.

Mr. ROSSOTTI. Eventually, we should be much faster in all these things, but in this area, I think the technology is a major constraint, unfortunately, right now.

Senator CAMPBELL. Ms. Sanders, as I understand it, lost her home in this tug of war with the IRS. From her testimony, it appears that the IRS took steps to seize her home even though her ex-husband's wages had been levied to pay the capital gains tax. If his wages had already been levied to pay the tax, what would the need be to seize her home?

Mr. ROSSOTTI. Mr. Chairman, I don't—I can't—

Senator CAMPBELL. I don't mean to put you on the spot.

Mr. ROSSOTTI. We are going to look into it. As I told you, we are going to look into all those cases and try to find out more about what happened.

CHANGING OF SEIZURE NUMBERS

Senator CAMPBELL. Well, then, let me ask you because I know you have only been on board one-half of a year or so, and I know these may be a little bit unfair to ask you. But you might know this: Does the IRS change everybody's seizure number every October?

Mr. ROSSOTTI. Mr. Chairman, I don't know, but we will find out.

Senator CAMPBELL. OK. You are not sure. Could you find that out and submit it to the committee for the record, too?

Mr. ROSSOTTI. Yes.

Senator CAMPBELL. It might be something we want to offer as an amendment to Senator Roth's bill.

Mr. ROSSOTTI. Yes; we will find that out.

[The information follows:]

The serial numbers initially assigned to a seizure do not change with each new fiscal year.

Senator CAMPBELL. What is the policy with regard to changing seizure numbers? Is there any kind of a policy at all in place?

Mr. ROSSOTTI. I honestly don't know, Mr. Chairman. We will find that out and get back to you.

[The information follows:]

After a seizure is made, the revenue officer obtains a serial number and annotates that number onto the seizure documents. The serial number is assigned by an automated system for the purpose of establishing an accounting control of seized property, tracking the age of the seizure, totaling expenses of the seizure, identifying the disposition of the assets, and closing out the seizure file. Seizure serial numbers initially assigned to the case file continue to be the same number until there is a final disposition of that seizure.

CREDIT CARD PAYMENTS

Senator CAMPBELL. Does the IRS make payments by credit card? I heard that, too.

Mr. ROSSOTTI. That is another one that I don't know. I mean, I suppose it is possible because I think there are some minor purchases that can be made by credit card, but I don't know. We will find that out for you.

[The information follows:]

The IRS purchases goods and services with the government credit card. The credit card is used by the IRS as a streamlined purchasing method for making micro-purchases (\$2,500 or less) and for ordering from existing government contracts, such as those on General Services Administration (GSA) schedules and indefinite delivery/indefinite quantity contracts negotiated and administered by the IRS. In these cases, the credit card serves as the vehicle for both procuring and paying for the goods or services. We anticipate that, in the future, the government credit card will be used by the IRS to make payments for deliveries, even in cases where a standard contract document is the required purchasing method.

USE OF PRIVATE CONTRACTORS

Senator CAMPBELL. We heard from Mr. Tuchman and also Ms. Martinez that they suggested basically that we use some outside contractors to do some of the work of the IRS. What would you think of that idea? Coming from the private industry yourself, I am sure you know, as I do, that they are much more efficient than Government agencies.

Mr. ROSSOTTI. There are certainly some things. Most important is the new technology, which, of course, we are planning to do almost entirely with prime contractors. I think as you get into things like specific taxpayers' tax accounts, it gets to be a little bit more difficult to manage.

Senator CAMPBELL. Dealing with Ms. Martinez's comments, too, have you ever heard of a hit list that she suggested or alluded to?

Mr. ROSSOTTI. I have not.

Senator CAMPBELL. But I am sure, being a Federal agency, there is zero tolerance for any racial discrimination, I would guess.

Mr. ROSSOTTI. Yes, sir; there certainly is, in both the official policies and, I have to tell you, from my own personal commitment. I have a very, very strong personal belief in the need to be inclusive and to be nondiscriminatory and to take advantage of everybody's talents in the appropriate way. And I certainly would not tolerate in any way that I would have any influence, any form of discrimination either internally or with taxpayers.

AUTOMATION AT IRS

Senator CAMPBELL. Ms. Martinez also believed that a majority of tax auditor and revenue agent positions could be eliminated because, in her words, most audits could be conducted by correspondence using computer technology. And I know we are moving into the time when computers talk to computers an awful lot, but—

Mr. ROSSOTTI. Well, actually, a rather large fraction of the audits on individual taxpayers are already done through service centers and correspondence and so forth, and the percentage of audits being done by face-to-face auditors in the office is actually declining and is relatively small compared to what it used to be. But I think that there are always going to be some cases where there is just a need to bring documentation in and sit down face to face.

Senator CAMPBELL. In fact, that does fly in the face a little bit of some of the comments we have got, that, my gosh, they make a telephone call, and they get a recording.

Mr. ROSSOTTI. Right.

Senator CAMPBELL. They don't want a machine, talking to a machine. They want to talk to a live human being, as you can understand.

Mr. ROSSOTTI. I think that that is exactly what I was going to say, that what we really need to do, really what the private sector does, is to provide the appropriate form of service to each customer based on what their particular needs are. So some people just as a matter of personal preference like to deal in person, and others—you know, I always like to talk about when my kids were in college. I don't think they knew what a stamp is. They just used the phone. And so you have to accommodate different needs of different kinds of people.

EDUCATING CHILDREN ON TAX ISSUES

Senator CAMPBELL. I might comment for your reading, if you haven't already, this recent Washington Post article, "A Tax-Time Bonus for Your Children." It was a little bit along the lines of what Ms. Martinez said. It talked about how to educate youngsters in dealing with tax problems, and if you haven't read that, it might be interesting reading for you.

Mr. ROSSOTTI. Thank you.

[The information follows:]

A TAX-TIME BONUS FOR YOUR CHILDREN

(By Suzanne Sutton, Special to the Washington Post, April 10, 1998)

"Mom, I think it's better if I itemize," 10-year-old Jason says as he looks up from his stack of tax forms.

"Go for it," says his mother, without looking up from hers.

"But don't forget, you can only take medical expenses over 7.5 percent of your adjusted gross," his 12-year-old sister, Kim, calls from the kitchen. "Unless you have a high mortgage deduction, it won't make sense. By the way, can I use one of your Schedule E's? I forgot about the roof repair on one of my apartment houses."

Some strange sort of upscale family bonding? Or gruesome child labor? A CPA head-start program? None of the above. It's April!

Think about it. The hard part about tax-time isn't the tax forms themselves. It's that the tax forms count, the numbers have to be true, our records precise, and at the end, we have to part with our money. Remove all that and what do you have? A devil of a good math problem for kids, tailor-made for almost any age. And free at any post office or public library.

True, there are lots of big words, and lots of fine print, much of which we don't even understand. True, the rules are rigorous, the penalties ominous, and the tax code oppressively complex, but no matter. We're not filing these forms.

When you get down to it, tax forms use math no more complicated than simple arithmetic: lots of addition, a bit of subtraction (never quite enough), and occasionally a little multiplication or division to offer some spice. If you choose your forms well, you might even get a chance to do some percent problems, but that's pretty much it. So you see, even your little ones can have a go at this.

And they will want to. Children want to be grown up and there is nothing juvenile about the 1040 or this year's Schedule D. Bring home their very own tax forms, and you're likely to be greeted with a big smile and a "for me?"

After you get the forms home your next step is to set the framework to get him started. This is a project that can suit a wide range of ages and abilities, so try to remove any anxiety that you, as a wise and reflective adult, associate with the forms. No one will care if your child's advertising expenses exceed his gross profits, if he takes depletion allowance when you don't even know what it is, or if he chooses to take the "audit-risky" home office deduction. Adjust suggestions to suit those of your child. The steps are simple.

Explain the basics.—What may seem obvious to us, does not seem obvious to them. Explain to your child the idea of income tax, that it's a way for the country to get the funds it needs for all it does, that the forms are filled out by anyone who earns income and are used to figure out how much each person must pay.

Give him a persona.—Why be a struggling student, when can be a wealthy landlord? Why be a government executive, when he can be a staging artist? Three ex-wives could be interesting, with all that alimony, and farming might be fun. Get extra forms.

Or, adopt a persona.—Calculate the tax forms for someone famous. Imagine a rock star's Schedule C: Travel, Meals and Entertainment. How about Ebenezer Scrooge's Itemized Deductions? Michael Jordan's 1040, line 7. A Congressman from your home state?

Guide him through the forms he'll use.—To the uninitiated, the forms look like a bunch of rows and columns and fine print. (Of course they also look that way to the initiated.) You may want to highlight the lines that make sense to use. Or not. It's perfectly okay to have nonsensical entries. For young children, just filling in columns, adding, and subtracting will be enough. Older children may enjoy coming up with complex scenarios.

Let him follow some steps.—Believe it or not, the tax forms really do tell us what to do. They tell us which columns to add, what to subtract, and what percentages to take. They refer us to other lines on other forms and then back again. This may be tedious when we do it, but it is excellent practice for kids, not to mention potentially quite fun—much like a maze.

Calculators?—As someone who works every day with high school students who are unable to do arithmetic without one, I encourage kids to try it without, until I'm sure their skips are solid. For young students, or students struggling to learn the basics, this can be a great "by hand" exercise. But calculators can be useful for complex situations, "what if?" questions, and certainly for speed. You can do it both ways. This is fun, remember?

Show the connections.—All roads lead back to the 1040. Help them see how all the supporting forms lead back here, and how to compute the final tally using the table in the IRS booklet.

Don't forget to sign.—You'd be surprised how exciting that can be for kids, to sign their own tax form. They even can write a fictitious check if tax is owed. They'll derive far more pleasure from the act than we do, to be sure.

Ignore the deadline!—If you're too frantic filing your own forms before the 15th, don't worry. Save your extra forms or collect some of the surplus and give them to your children after April 15. No penalties here.

BURDEN OF PROOF

Senator CAMPBELL. You know, most people, I think most constituents—and me, too, to a certain degree—believe that the IRS assumes you are guilty right from the get-go and it is up to you to prove you are not. In other words, the burden of proof is on the taxpayer, which, you know, in most other areas of our society you are innocent until proven guilty. And we hear this all the time, and this is the law, this is our basic fundamental right as Americans,

we are innocent until proven guilty. But with the IRS, you are guilty until proven innocent.

I understand that because, believe me, as an elected official here, guilty until proven innocent, too, of darn near everything, so I understand the process.

But would you comment on that? I know you have been trying to make some fundamental change in that attitude.

Mr. ROSSOTTI. Yes; well, I think when people say that, my interpretation is there are sort of two levels of meaning there. One level is sort of in the technical legal sense of, you know, what is the burden of proof and so forth, and there are some changes that will be in the bill coming up that will adjust that for taxpayers that go to court. And I think certainly my view is that it is appropriate that, if everything is equal, the taxpayer ought to get the benefit of the doubt.

But I think actually, in my discussions, that many taxpayers, not so much the tax lawyers but the broader group of taxpayers, sort of look at it in—they are not so much focusing on the technical legal interpretation of what happens when you go to tax court and how did the judge make a decision. I think they are really looking at it more as an attitude and what is the point of view of the IRS. I mean, is the IRS basically taking the point of view that you are wrong until you can prove me right as opposed to the technical side. And I think on that, you know, that is a broader kind of—that is really the shift I said. That is really the shift that we need to make, a basic shift. We need to look at ourselves more as problem solvers with taxpayers and take the point of view, OK, this taxpayer has a problem; even if they do owe more tax, let's try to figure out through offers in compromise or installment agreements or some way to get this taxpayer current, in compliance, and then move on from there so that they can get on with their life and we can get on to the next thing.

I think that is a different point of view perhaps than—not perhaps, it is a different point of view than has been the focus in the past.

You know, I really want to say that I don't think that we can really criticize the IRS employees for that at all, because I think that really my perception is that everybody that was involved—and probably this would have to include the Congress as well as the various administrations on both sides—took the point of view that, you know, as long as the money was flowing in and things were running right, you know, that was the most important thing. And I have certainly heard it from many people that are former IRS employees and former executives who are not even there anymore, who said, look, the way that you would get in trouble in the IRS—and it was from the management at the top—is if you, quote, gave away the Government's money and didn't collect every cent in every circumstance. You know, that was the way you would get in trouble. You would never get any benefit for trying to really solve a problem for a taxpayer, particularly.

That is really an obsolete point of view, and I think it needs to be changed, and I think it is going to certainly require the continued support of the Congress to make that happen.

Senator CAMPBELL. Well, the public momentum is there now.

Mr. ROSSOTTI. Yes.

Senator CAMPBELL. I have cosponsored I think every Taxpayer Bill of Rights since I have been there 10 years, including the first one 10 years ago that put restrictions on IRS employees getting bonuses for money collected. It put the burden of proof on the IRS so they would have to prove you wrong rather than you prove yourself innocent. I still remember that bill 10 years ago. It would have required the IRS to pay interest if it was their mistake, just like the individual has to pay interest if it is their mistake. We never could get that passed, but just at that time the support for it in the administration, the support for it among some of our colleagues, and the support for it by the public just did not have the momentum it does now, and I think that the hearings they have done on the House side recently, hearings that you are aware of, and the support from this administration to make some changes, and certainly the momentum has developed at the grassroots level is going to put some of those things in place, or at least peripherally, that we have been talking about for years.

Mr. ROSSOTTI. Yes, sir.

Senator CAMPBELL. Let's see. I think that perhaps—I had a number of other questions, but in the interest of time, I think I will go ahead and ask you to submit the answers to those in writing, if you would.

Mr. ROSSOTTI. Sure.

SUBMITTED QUESTIONS

Senator CAMPBELL. I certainly appreciate you being here. I know you have a busy schedule. You are going to a lot of places, but thank you very much. I have about five or six more questions that I think are important for this committee to know, and that will give you more lead time than you had today, by the way. I would hope that you would stay here at least for our last panelist, who is Mr. Robert Tobias, with the National Treasury Employees Union, if you have the time.

Mr. ROSSOTTI. I will.

Senator CAMPBELL. And thank you again for being here, Mr. Commissioner.

[The following questions were not asked at the hearing, but were submitted to the agency for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR CAMPBELL

DENVER, COLORADO FIELD HEARING

Question. There appears to be some conflicting information about seizure numbers. Does the IRS change seizure numbers each October at the beginning of a new fiscal year?

Answer. No, the serial numbers initially assigned to a seizure do not change with each new fiscal year.

Question. Exactly what is the IRS policy with regard to changing seizure numbers during such proceedings?

Answer. After a seizure is made, the revenue officer obtains a serial number and annotates that number onto the seizure documents. The serial number is assigned by an automated system for the purpose of establishing an accounting control of seized property, tracking the age of the seizure, totaling expenses of the seizure, identifying the disposition of the assets, and closing out the seizure file. Seizure serial numbers initially assigned to the case file continue to be the same number until there is a final disposition of that seizure.

Question. Just a curiosity question—Does the IRS make payments by credit card?

Answer. The IRS purchases goods and services with the government credit card. The credit card is used by the IRS as a streamlined purchasing method for making micro-purchases (\$2,500 or less) and for ordering from existing government contracts, such as those on General Services Administration (GSA) schedules and indefinite delivery/indefinite quantity contracts negotiated and administered by the IRS. In these cases, the credit card serves as the vehicle for both procuring and paying for the goods or services. We anticipate that, in the future, the government credit card will be used by the IRS to make payments for deliveries, even in cases where a standard contract document is the required purchasing method.

Question. Dennis Marty outlined some of the problems he had with confusion over unemployment benefits and mortgage interest payments. Generally speaking, if a bank made a mistake on a 1098 mortgage interest form, who is held responsible—the bank or the taxpayer?

Answer. The filer of an information return is subject to penalties under I.R.C. Sections 6721–6722 for providing incorrect information on an information return filed with the Service and for any incorrect information on the payee statement provided to the taxpayer. The penalty is \$50 per information return up to a limit of \$250,000, and \$50 per payee statement up to a limit of \$100,000. If the filer of the incorrect information return and payee statement catches the error and files a corrected information return and sends a corrected payee statement, the taxpayer is responsible for filing an amended tax return and paying any additional tax owed. In normal circumstances, the taxpayer would not be liable for penalties in such cases.

Question. Are the rules of evidence that are applicable to the IRS different from those that apply to other federal agencies?

Answer. Rules of evidence are set by formal rules of the various courts and do not differ between parties (whether the government or not) or between agencies including the Internal Revenue Service. In federal courts, the “Federal Rules of Evidence” are used. By statute, I.R.C. section 7453, the Tax Court also uses the same rules of evidence. An exception exists for cases where the taxpayer elects to use the small case procedures of the Tax Court. I.R.C. section 7463. In such cases, which are informal proceedings, any evidence deemed to have value can be considered without regard to the formal rules of evidence. Tax Court Rule 177(b). This rule permits taxpayers to present their own cases, usually unassisted by representatives who would be versed in the evidentiary rules.

[ADDITIONAL NOTE.—Although this question was framed in terms of rules of evidence, it is possible that it meant to refer to burden of proof. A burden of proof is not strictly a rule of evidence but rather determines how issues are to be decided based upon the evidence produced. Burdens of proof are set by issue specific or generic statutes, formal rules of court, and discretionary judgments of courts based upon common law principles. When made by statute, they are usually made with reference to the legal issues involved and the social and legal policies inherent in those issues, so no real comparison can be made between agencies which deal with different laws and issues.]

Question. What are the IRS guidelines for expanding an audit? Can it be done simply because the auditor wants to do so?

Answer. In office examination, group manager approval is required to expand the examination beyond the issues that were pre-classified. In field examination, expanding the issues is primarily a revenue agent decision that would require group manager approval in limited situations.

In all cases where an examiner requests another return (prior year, subsequent year or related), group manager approval is necessary.

The examiner (revenue agent or tax auditor) is required to use professional judgment in determining scope and depth of the examination. Some preliminary issues may be pre-identified on the return; however, it is the responsibility of the examiner to expand or limit the examination based on further review and analysis of the return, taxpayer records and statements and any other available related information. An examiner may decide to expand the examination to include additional issues, prior and/or subsequent year returns or related returns. Related returns are any other return that have a direct relationship to the return under examination, such as financial transactions that directly affect both returns.

Question. Both Amy Powers and Katherine Morehead are classic examples of problems faced by an innocent spouse. What protections are currently available for innocent spouses in these types of situations? What more can be done?

Answer. Under existing law, when a married couple files a joint tax return, each spouse is liable for the full amount of income tax for that year. Under certain circumstances which are enumerated in Internal Revenue Code section 6013, one spouse may qualify as an “innocent spouse” and be relieved of joint liability. In Feb-

ruary 1998, the IRS announced a number of administrative actions to ensure that spouses who may qualify for such relief can apply for it. These actions were:

1. Issuance of special form—Form 8857, Request for Innocent Spouse Relief—which was available on the Internet on March 31 whereby spouses can file a claim for innocent spouse relief;
2. Centralization of innocent spouse claims (Forms 8857) in one service center;
3. Training to ensure the proper recognition and routing procedures for the mail opening operation in all ten service centers to review and recognize cases for appropriate routing;
4. Establishment of procedures to ensure that taxpayers calling the toll-free telephone service with questions about innocent spouse will be directed to a specialist trained in the innocent spouse provisions of the tax law;
5. Initiation of a program of focused outreach on both the national and local levels to community organizations that serve abused or battered spouses to identify those who might qualify for relief under the innocent spouse provisions;
6. Mandatory discussions with taxpayers of innocent spouse provisions at the conclusion of the audit, where such provisions could be applicable.

The current House Bill and Senate Bill on Restructuring the IRS contain provisions on innocent spouse relief which will result in more spouses qualifying for such relief than under the existing law.

Question. As you know, the Senate Finance Committee recently approved an IRS reform package which will soon be considered by the Senate. One of the provisions of Senator Roth's bill would change the innocent spouse relief requirements to allow them to pay taxes on their own incomes only. That provision would become effective in time for the 1999 filing season. That seems a long time to wait for relief. Can't this change be implemented any faster?

Answer. As passed by the Senate, this provision currently is effective for tax liabilities arising after the date of enactment and any liability arising on or before such date, but remaining unpaid as of such date. I took a careful look at the provisions in the Senate Restructuring bill in light of our century date change and 1999 filing season efforts and requested later effective dates for some provisions. The innocent spouse provision is very complex and cannot effectively be administered on a manual basis; an automated system must be developed and implemented to reduce the likelihood of error. In the near term, the IRS must manage a large number of complex tasks, each of which must be completed on time to avoid failure of the tax administration system. Thus, even if these provisions are feasible individually, the cumulative impact of a group of proposals can seriously imperil our ability to successfully conduct the 1999 filing season as well as implement our century date change program.

Question. According to the information provided by Ms. Powers, she received notification of a tax obligation five years after she filed which showed that a \$13,000 tax balance owed had miraculously become almost \$35,000. And, she didn't even know that the original amount was owed. How does this happen? What steps, if any, do you plan to take to make sure that taxpayers are notified of a tax obligation BEFORE any interest and/or penalties begin to accrue?

Answer. The IRS sends notices, including notice and demand for payment, to the last known address of the taxpayer. In the case of divorced or separated spouses, one spouse may receive these notices and may not inform the other spouse. Under existing law, many penalties and interest begin to accrue on the tax obligation from the due date of the tax return. Penalties and interest can only be abated under certain circumstances provided by law and failure to receive notification of a tax obligation is not one of these circumstances. The Senate Restructuring Bill expands relief for innocent spouses and will provide additional relief for divorced or separated taxpayers.

Question. Dr. Alvin Stjernholm was on the receiving end of tax audits for 16 consecutive years. Is that some sort of a record, or is that common? What is the statute of limitations on tax liability?

Answer. Records are not maintained on the frequency of audits of an individual taxpayer. However, 16 consecutive audits would not be common.

There is no limitation on the frequency with which a taxpayer may be selected for examination. However, if the examination results in a no change or minimal changes to the tax liability, the taxpayer is entitled to relief from any examination involving the same issues for the two years following the year of the no change or minimal change.

IRC 6501(a) and 6501(b)(1) provide that the statute of limitations for assessment is generally three years after the return is filed or due (without regard to extensions), whichever is later. The IRC provides for several exceptions to the general rule—fraud and substantial understatement of income are two examples. A tax-

payer may be asked to extend the statute of limitations when a taxpayer is under examination and the statute of limitations may expire before the examination can be completed.

Question. What is the process for auctioning a taxpayer's assets to settle a tax debt? How often are items auctioned off for significantly less than what they are worth? Is the debt actually settled after the auction?

Answer. The process of auctioning a taxpayer's assets begins with seizing the asset and establishing a fair market value for the property. Some methods used to establish the fair market value are comparable sales, and in the case of specialized property, appraisal of the asset, which the Service may provide. A minimum bid price, as required the Internal Revenue Code Section 6335, is established. The purpose of the minimum bid is to conserve the taxpayer's equity by setting a price that is generally above eighty percent (80 percent) of the forced sale value of the taxpayer's interest in the asset, less encumbrances having priority over the Federal Tax Lien. Internal Revenue Service Policy Statement P-5-35 limits establishing the minimum bid above the amount of tax, additions to the tax, and the expenses of the sale; however, it does not limit the amount prospective buyers can bid. The taxpayer is provided with documentation that informs him or her of the minimum bid amount, an explanation of how the bid was determined, and instructions for the taxpayer on how to appeal the Service's determination of value and computation of the minimum bid.

The property may be offered for sale at a public auction sale or under sealed bid. A public auction may be conducted by a revenue officer or by a professional auctioneer. The objective of the sale process is to maximize the amount realized at the sale that can be applied to the taxpayer's account. Marketing and advertising the assets, or using an auctioneer are strategies used to maximize bids. The assets are sold as-is, where-is, and without recourse to the government.

We have no data at the National level to show how often assets were sold for significantly less than their value or to identify if the tax debt was settled after the auction. However, many taxpayers do not have sufficient equity in assets to settle their entire tax debt. For example, in fiscal year 1997, 27.5 percent of the seized cases were sold netting \$159,960,760. The average balance due per seized case was \$179,546 and the average net yield per seizure was \$16,429. Indeed, the seizure enforcement action also had impact on the 18.9 percent of the seizures that were redeemed and the 49.1 percent of the seizures that were released for various reasons (the taxpayer entered into an installment agreement or the government received their interest in the property). Interestingly, of the seizures released, only 3 percent did not meet the minimum bid and therefore were also released. The remaining 4.5 percent of the seizures were cash seizures, not requiring an auction.

Question. The new IRS you envision is supposed to be more customer friendly. As you heard, Robert Leshner tried to get help from a Problem Resolution Officer and instead found himself in a bureaucratic maze of unavailable forms and unknown time frames. What changes do you envision to the PRO system to address these types of problems?

Answer. While I am not able to comment on the specific circumstances surrounding Mr. Leshner's case. I can tell you that the local Taxpayer Advocate took action to discover why there was a breakdown in securing a Form 911. He learned that the forms distribution centers had been instructed to destroy all existing copies of Form 911, due to a change in the form. As a result, several taxpayers and practitioners were left with no source of Form 911. This should not have happened; however, due to the efforts of the Taxpayer Advocate, procedures were developed to ensure that Forms 911 are not destroyed until replacement copies are available.

Action was also taken to instruct toll free and walk-in employees that they have a responsibility to obtain information from taxpayers when they ask for Form 911 and that they (IRS employees) are to take action to relieve the hardship or write up Form 911 and route it directly to the Taxpayer Advocate's office. In addition, our employees are trained to tell taxpayers that they can submit an Application for Taxpayer Assistance Order without the Form 911 if necessary.

This issue raised an important point. We will never eliminate all problems, but the point is to identify weaknesses in our way of doing business with taxpayers, and take corrective actions so that taxpayers are not disadvantaged.

Question. What are the IRS rules or guidelines for dealing with a taxpayer whose family is experiencing severe health problems?

Answer. While there are no written rules or guidelines for dealing with a taxpayer whose family is experiencing severe health problems, the IRS does make every effort to provide taxpayers, to the extent the law allows, flexibility in interacting with the IRS.

Question. Mr. Rossotti, you may have read an April 7 article in the Boston Globe entitled "IRS won't take Acton man's canceled check for answer". In a nutshell, the taxpayer paid his 1996 income tax by check, which was deposited by the IRS, and the canceled check was returned to the taxpayer by his bank. Well, somehow the money got lost and now the IRS is demanding that the taxpayer pay again. This seems pretty unfair to me. Are you familiar with this article? Can you justify the IRS actions?

Answer. Yes, I am aware of this story reported in the media. While I cannot address the specific facts of this individual situation because of privacy restrictions, I can give you specifics on the procedures the IRS has in place for handling cases when a taxpayer has not been credited for a payment. When a taxpayer must be contacted to resolve the problem, the IRS asks for a front and back copy of the canceled check. The back of the check provides coding information that allows for the funds to be traced from bank to bank. The canceled check is proof of payment and is honored by the IRS. If the taxpayer in this instance was told otherwise, that was incorrect and we have apologized to him for this.

Question. Commissioner Rossotti, you have stated that the IRS has begun addressing problem areas that surfaced during the Senate hearings last fall about IRS abuse of taxpayers. When will taxpayers, on the outside looking in, be able to see a difference in the way they are treated by the IRS?

Answer. As I have previously stated, I believe that the IRS, over time, can greatly improve its service to the public. In the near term, we are taking action to move forward toward these goals. Since the September hearings before the Senate Finance Committee, the IRS created a number of initiatives to improve taxpayer service and help taxpayers comply with the law. Last November we began hosting monthly Problem Solving Days across the country. Taxpayers have consistently given IRS high marks for the service they received at Problem Solving Day. We extended the hours of telephone service this filing season to 16 hours a day 6 days a week. As part of our Saturday Service Days, we also hosted Problem Prevention Days and sponsored an Earned Income Tax Credit Awareness Day to help taxpayers determine if they are eligible for the credit and then show them the correct way to fill out the tax return. Even though these are small first steps, the feedback that we are receiving is that taxpayers are seeing a difference in the service that they receive from the IRS. Testimony provided by practitioner representatives before the House Ways and Means Oversight Subcommittee praised IRS' efforts to improve customer service performance during this year's filing season. One practitioner, in his testimony, stated that others in the field have reported that the IRS personnel they have been dealing with have mostly been cooperative in their efforts to iron out taxpayer problems and assist citizens in putting together installment agreements or offers in compromise in order to resolve their cases.

Question. Is the IRS conducting a thorough review of IRS employees who have had any direct interaction with taxpayers of their treatment of taxpayers?

Answer. After the IRS oversight hearings conducted by the Senate Finance Committee in September 1997, the IRS Inspection Service initiated internal audits on the use of enforcement statistics, collection enforcement actions, and controls in the examination process. Inspection also initiated some investigations of alleged misconduct by IRS employees. Completed investigations have been referred to a Treasury review board for administrative action. Internal audits and investigations are continuing. In addition, the Treasury Inspector General has conducted investigations on this subject.

In more general terms, in an effort to make sure we have the proper mechanism in place to review complaints about employees, IRS will be convening a Disciplinary Action Review Task Force to review our complaint intake systems (e.g., Automated Labor and Employee Relations Tracking System (ALERTS), the Equal Employment Opportunity office, the Chief Inspector, and correspondence to the Commissioner (Executive Control Management System—ECMS). With the assistance of an outside expert, the task force will assess the number and type of complaints/disciplinary actions; determine if we should integrate the intake systems (the same complaint might come in through several channels); and determine the appropriate level of agency oversight.

Question. What type of training are employees with direct interaction with taxpayers currently receiving? Are you planning any changes to that training?

Answer. There is a wide range of training in development and currently being delivered. For example, front-line employees in Compliance (Examination and Collection) are receiving training on interviewing techniques, alternative dispute resolution, conflict management, and customer service as well as technical training on the Taxpayer Relief Act of 1997. In addition, we are developing training to move the organization to deliver World Class Customer Service. This training will be deliv-

ered to all employees to direct our organizational focus to the delivery of quality customer service which meets the needs of the American taxpayer. We are in the process of asking members of the Commissioner's Advisory Group to assist in the review of training materials, offer comments and recommend changes in the way the material is presented.

Question. I believe many would agree that IRS employees' attitudes must change. Will training help to make that change? The point I'm making is that given the reputation of the IRS with the taxpayers, I think the front line is the first place for you to start making changes.

Answer. Clearly, training is key to improving the attitudes and performance of IRS employees. The front line employees who meet and deal with taxpayers must be the immediate recipients of training if we are to influence our reputation with the American taxpayer. To this end, we have developed competency assessment instruments to measure customer service attitudes and technical proficiency. These instruments have provided information upon which we have developed and piloted training. This training has resulted in greater customer service and technical performance on the part of those employees who have participated in the training. We will extend this training to all employees through the World Class Customer Service initiatives.

Question. Mr. Rossotti, you heard the testimony of Ken Tuckman and what he believes his company can do to assist the IRS. His ideas appear to dovetail nicely with your own ideas of providing better customer service. Do you think there is a place for such a contract support organization within the IRS?

Answer. To further our goal to provide world class customer service, it is my intention to tap into corporate expertise when appropriate. Currently, we do have several initiatives underway that are customer focused and conceptually similar to Mr. Tuckman's proposals. These initiatives are designed to foster improvement without relying on new technology. Some of the current initiatives are: improvement of training strategies; enhancement of reference materials and other tools available to Customer Service Representatives; reassessment of work processes, work flow, required skills, etc.; and, improved hiring and recruiting practices.

Question. The most obvious use for such a first-line customer service operation is to answer routine non-tax questions—such as where to get forms or what form goes with what kind of income. Do you happen to know what percentage of calls to the IRS during peak filing season fall into that category?

Answer. During the period of January 1, 1998, to April 18, 1998, approximately 6 percent of the calls handled by assistors (on the tax law and tax account lines) were requests for information regarding forms i.e., forms ordering and forms help. An additional five million calls requesting forms were placed to the 1-800-TAX-FORM line during this period.

NONDEPARTMENTAL WITNESS

STATEMENT OF ROBERT M. TOBIAS, PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION

INTRODUCTION OF WITNESS

Senator CAMPBELL. With that, we will just go right into Mr. Tobias' testimony, and thank you also for being here.

You can just go ahead and proceed, Mr. Tobias.

Mr. TOBIAS. Good morning, Mr. Chairman. Thank you very much for providing NTEU with an opportunity to testify today.

I want to start by saying that the vast majority of Internal Revenue Service employees are dedicated, committed, and extremely competent employees. I say this because I believe it and I say it because the data that has recently been collected supports that conclusion.

Over the past 4 fiscal years, fiscal years 1995 to 1998, the IRS collected 24 percent more revenue, handled 8 percent more returns, with 13 percent fewer resources, or \$1 billion less in constant dollars. In fiscal year 1995, IRS processed 193 million returns, and in fiscal year 1998, we will process 208.4 million returns.

In addition, the number of calls answered has increased from 101.2 million in—

Senator CAMPBELL. Could I interrupt you just a moment? I noticed when Mr. Rossotti sat down, we suddenly had an influx of people running up to sit right beside him and behind him. I would tell folks in the audience that he can't solve your problems here in 10 minutes that you may have with the IRS, and I would hope that you would let him hear the testimony, because he is going to have to respond to a lot of this testimony, and not encumber him with your personal problems. We have a process by which we deal with that, and we will certainly help you through our Senate office, too. But he needs to listen to this testimony.

Go ahead, Mr. Tobias.

Mr. TOBIAS. In addition, the number of calls answered has increased from 101.2 million in 1995 to 120.6 million in 1998. And the level of access or the opportunity to actually reach the IRS has increased from 30 percent, an abysmally low level, in 1996 to, as Commissioner Rossotti testified, we expect 75 percent in 1998. And the accuracy rate for those calls is 96 percent.

More work has been done at considerably less cost. In 1995, it cost 59 cents to collect \$100 of revenue, and in 1998, it will be 47 cents. No other tax collection agency in the world is even close. Most democracies spend between \$1.25 and \$1.70.

More work, less cost, and 11,000 fewer employees since 1995—IRS employees have performed well.

The good performance is reflected in the evaluations taxpayers who have an actual transaction with the IRS provide. The results, I believe, are very good.

Commissioner Rossotti testified about the problem-solving days that the IRS recently initiated, starting on November 15. The taxpayers have evaluated employees overall at a 6.45 level on a 7-point scale.

The Examination Division has now begun customer satisfaction surveys. The initial results show that 5.9 percent rate audits as unfair and 76.3 percent rate the IRS as fair—the highest rating; and 3.6 percent rate the employees disrespectful, and 81.5 percent respectful—the highest rating. And there was a Harris poll that was released today which showed that 6 percent of the public believe they have been treated unfairly by IRS personnel, whereas 76 percent say they were treated fairly by the IRS. Five percent of the public say the IRS has been discourteous and, in contrast, 83 percent say the IRS has been courteous.

We certainly need more customer satisfaction data, but what we have collected is very favorable.

The solutions, I believe, to the problems you heard today lay in a reorganized IRS consistent with what Commissioner Rossotti recently testified, an IRS reorganized along business lines.

As a member of the committee to restructure the IRS, I supported this concept, and I have supported the Commissioner's approach. It will focus accountability and allow the IRS to fulfill its responsibilities to those taxpayers who are compliant and those who seek to be compliant. The solution to the problem also, I believe, is to appropriate the full amount requested by the President.

The IRS needs the requested funds to implement the vast changes in the tax law enacted in 1997. It needs the funds to implement the Y2K effort. It needs the funds to improve business technologies, laptops for revenue agents, computers for revenue officers. It needs the money to improve the level of access from the 75 percent this year to the planned 86 percent in 1999. And it needs the money to provide for needed training.

Cutting the IRS budget, as some have proposed, won't solve the IRS problems. It will make the IRS worse. I certainly urge you and the committee to appropriate the full requested amount. I think the IRS is on the right track, and I am hopeful that with this appropriation it won't be derailed.

Thank you very much, Mr. Chairman.

PREPARED STATEMENT

Senator CAMPBELL. Thank you, Mr. Tobias. We have your complete statement and it will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF ROBERT M. TOBIAS

Chairman Campbell, I am very pleased to be here today to discuss the views of the National Treasury Employees Union (NTEU) on the needs and operations of the Internal Revenue Service. I have served as President of the NTEU since 1983 and have been associated with NTEU since 1968. NTEU represents approximately 150,000 federal employees, roughly 95,000 of whom work for the IRS.

The IRS has had many problems in recent years, including serious difficulties in acquiring and utilizing technology needed to allow employees to perform their jobs

at levels that taxpayers rightly expect. Funding and training cutbacks have also created problems. Between 1992 and 1998 the agency has cut nearly 15,000 employees, leaving many functions, such as customer service, understaffed and woefully under-trained.

The IRS Restructuring Commission on which I served looked carefully into the many problems facing the IRS and the taxpayers who must interact with it. The Commission's thoughtful analysis of the problems and solutions provide a solid guide to getting the IRS back on track. But, the Commission's recommendations might have languished on a shelf without the impetus for action created by hearings held by the Senate Finance Committee last September. Those hearings were very painful for the IRS employees I represent.

They were painful because the vast majority of IRS employees try very hard, despite antiquated computers, sometimes misguided managers and public disdain to do the best job possible for the taxpayers, yet the message of the hearings that filtered through the media all across the country was that most IRS employees were incompetent at best and evil at worst. Senator Roth repeatedly stated that most IRS employees do a good job and that Congress' interest is in correcting systemic problems and in protecting employees from management abuses.

The hearings were painful for IRS employees for other reasons as well. They were painful because many of the problems that were highlighted were problems that IRS employees knew could have been avoided. The most glaring of these problems, that of overly aggressive tax collection efforts, could have been avoided if the Field Office Performance Index, which has been suspended since the hearings, had never been adopted. NTEU had strenuously opposed the use of this system that measured and rated each IRS Field Office by the amount of collection revenue brought in. We knew that even though individual employee quotas had been outlawed, this system would have the same result by pushing district managers to push employees to emphasize collection statistics rather than fair treatment. And, in fact, those hearings and subsequent IRS internal investigations have found a number of managers who have done just that.

I believe that lack of training, outdated technology, low pay and the "stovepipe," compartmentalized structure of the IRS contributed to the inability of taxpayers to get their problems solved. I believe that Commissioner Rossotti's proposals to change the IRS structure to make it more responsive to taxpayers will make it easier for IRS employees to provide better customer service. I also believe that the institution of "problem solving days" has been helpful in providing IRS employees with an additional means to help solve taxpayers' problems and should serve as a model for how all of the IRS's departments should work together to solve taxpayers' problems all the time. But much more needs to be done and the most important step to addressing the problems raised in last September's hearings is enactment of H.R. 2676, which passed the House by a vote of 426 to 4 in November of 1997.

One issue critical to success for IRS reform that is not directly addressed in H.R. 2676 is adequate funding. Employees cannot provide quality service to taxpayers without adequate pay, training, technology and facilities. The federal employees who serve at the Internal Revenue Service want to provide world-class service. But as we have heard time and again, just like their private sector counterparts, federal employees must have the tools to get the job done right. Budgetary driven personnel restrictions often prevent the agency from hiring the employees they require to adequately handle the workload. Restrictions and promotions and limited advancement opportunities lead to morale problems. The lack of funding for training creates situations where employees are thrust into situations they are unable to handle to the level taxpayers expect and deserve. Congress has the ability to correct these problems and put the agency on a solid, long-term course with success. Not only success from the standpoint of collecting taxes owed, but success from the view of taxpayers who must deal with the agency. No one will ever enjoy paying their taxes, but, at a minimum, they should come away from their dealings with the agency believing they have been treated with respect and dignity. The IRS can and will be a world-class organization with the proper tools and funding.

Right now, customer service representatives at the IRS earn on average around \$28,000 a year, with an absolute maximum salary in the highest cost city of the country (San Francisco) of \$36,027. The customer service representative is the person who is charged with answering every question that any taxpayer across the country may have when they call the IRS for help. This is the person charged with having intricate knowledge of the entire U.S. Tax Code, including the 9,000 pages just added last year. A law school graduate working as a first year associate at a tax law firm would laugh at that salary. Even customer service representatives at other federal agencies, like the Social Security Administration, earn more money.

That must change. IRS must be able to attract, retain and promote individuals who will provide world class customer service.

I would note that Senator Gramm of Texas stated at the Finance Committee hearing on January 28th that IRS employees needed to be paid more. I would like to second that sentiment and emphasize that not only the top technology people need to be paid more, but to ensure quality service to taxpayers, front line employees need to be paid more as well.

Despite the monumental amount of knowledge required to perform the customer service jobs well, little, and in some cases, no training is provided. I have heard of many cases in which IRS employees who ordinarily perform other functions have been told to answer taxpayer calls and man walk in sites with no training at all. One IRS employee temporarily assigned to cover a taxpayer service window with no training recently told me that she felt terrible having to tell a taxpayer that all she could do was to take her information and ask someone else to get back to her. She said she understood and sympathized with the taxpayer's anger over not being able to get an answer to her question, but that she was more afraid of giving the taxpayer the wrong answer. This also must change and I believe ensuring the availability of appropriate training can be addressed in the context of a new performance management system as required by section 9302 of the H.R. 2676.

Mr. Chairman, the plain fact is that no one, not even the Congress, can have it both ways. We cannot expect the IRS to eliminate its problems if we cut its budget. That makes no sense. I hope this Congress will provide the funding necessary to achieve the level of service taxpayers expect and deserve.

NTEU believes that the President's budget proposal is the absolute minimum required to begin a reinvention of the IRS "around taxpayers needs." However, there are some in the Congress who are seeking to gut the IRS budget instead of providing the resources indispensable to that necessary restructuring. The Senate Budget Committee's recent action to cut the President's request for the IRS by 6 percent—some \$500 million—makes no sense. It is the wrong cut, in the wrong place, and at the wrong time.

Both the recently announced Gore-Rubin "Reinventing Service at the IRS" report and the President's budget are solid first steps in response to taxpayers' concerns. The Congress must not ignore them. As the new IRS Commissioner, Mr. Rossotti, advised both the Senate and House Appropriations Subcommittees in early March: "The fiscal year 1999 budget we are requesting is absolutely essential to begin this long-term transformation."

The total budget request for fiscal year 1999 is \$8.196 billion and 100,829 FTE. The total budget request includes a net increase of \$529 million and 1,232 FTE over the fiscal year 1998 level. Of this increase, \$176 million represents part of the cost that would be needed to maintain the current level of operations, taking into account inflation and mandatory pay increases. The remaining increases represent funding dedicated to improved near-term customer service (\$103 million), near-term and long-term technology investments (\$227 million) and organizational modernization (\$25 million).

I have spent a good amount of time with Commissioner Rossotti. I support his reorganization proposals and have joined with him to urge all IRS employees to do the same. Foremost among the funding initiatives proposed for fiscal year 1999, NTEU believes that the Congress should consider the \$103 million for near-term improvements in customer service as one of its highest priorities. In my role on the IRS Commission, I advocated the position that the IRS needed to make customer service its number one priority. I believe Commissioner Rossotti agrees with that view.

Mr. Chairman, even though we agree that the IRS needs to do much more to improve its operations, IRS employees are performing exceedingly well in comparison to any similar organization in the world. Over the past four fiscal years, fiscal year 1995 to fiscal year 1998, the IRS collected 24 percent more revenue, handled 8 percent more returns with 13 percent fewer resources, or more than \$1 billion less, in constant dollars. In fiscal year 1995, the IRS processed 193.3 million returns. In fiscal year 1998, it is expected to process 208.4 million returns. In the past year, the total tax revenue collected rose by more than \$70 billion while the agency processed an additional 5.8 million returns. Revenues were \$1.36 trillion in fiscal year 1996; \$1.5 trillion in fiscal year 1997; \$1.58 trillion in fiscal year 1998, and projected revenues for fiscal year 1999 are \$1.64 trillion. In addition, the accuracy rates for tax law inquiries, accounts information and refunds have dramatically improved.

In fiscal year 1995, the cost to collect \$100 of revenue was 59 cents. In fiscal year 1996, the cost was 53 cents and in fiscal year 1997, 48 cents. In fiscal year 1998, the cost to collect \$100 should drop to 47 cents. No tax collection agency anywhere comes close, much less matches the IRS cost per dollar of revenue raised. Most de-

mocracies spend nearly three to four times that much, \$1.25 to \$1.70, to collect \$100 in income tax revenue.

In 1997, the 102,000 IRS employees collected more than \$1.5 billion, processed 215 million tax returns, issued almost 88 million refunds, assisted more than 110 million taxpayers, distributed more than one billion forms and publications, sent 70 million notices and letters to taxpayers, processed more than one billion information documents, completed more than 1.5 million audits and assessed \$10.4 billion on delinquent returns. In fiscal year 1998, the IRS will answer more than 120 million telephone calls, provide walk-in service to nearly nine million taxpayers, and will examine nearly 1.3 million individual returns.

Mr. Chairman I believe this data shows without a doubt that IRS employees have been performing remarkably well. Despite inadequate resources and a host of poor management practices that failed to prevent the well-publicized failings of some, IRS employees are the best in the world at what they do and are consistently getting better. But you can only squeeze people so hard for so long. There's a limit. We cannot expect the IRS to continue to improve, especially in the area of customer service, without investing the resources that Commissioner Rossotti, the Rubin-Gore Task Force and the Restructuring Commission have recommended. NTEU strongly urges that the Congress to provide these resources.

Mr. Chairman, thank you for this opportunity to present the views of the National Treasury Employees Union at today's hearing. I applaud you and other members of the Subcommittee for taking a closer look at the operations and the needs of the Internal Revenue Service. I would be pleased to answer any questions you may have.

ACCOUNTABILITY FOR IRS BUDGET

Senator CAMPBELL. Our committee will be dealing with their budget, as you know, and we have the last couple years been trying to provide the additional revenue to bring them up to speed, particularly for the needed equipment for particularly the year 2000. But in addition to that, you know, we have to have accountability. And as you probably know, in the past there has been money appropriated that it has been very questionable about what it was used for. I have heard a lot of different numbers, and I don't want to try and dig through my hearing notebook, but there was literally millions and millions of dollars that apparently was misspent on the wrong kinds of equipment, the wrong kinds of computers and so on. So, you know, I am supportive of bringing it up to speed so it can do a better job, but by the same token, I have to be accountable to my constituents about where we are spending their money. And I think the agencies have to be equally accountable about how they are using it.

I might say from your particular position, you are, I guess, a little like me in that you, in fact, become sort of an ambassador. You are a representative of that agency, working for it, just as I am of the U.S. Senate. And even though the statistics say most people in any given area, let's say policemen, for instance, do a terrific job, you only have to have one really bad experience with a policeman—or a Senator or perhaps an IRS official or an IRS agent—to really sour you on the whole thing. And I think when people tell us about how they lost their home, my gosh, literally had their family destroyed, boy, those are crucial, terrible things to hear.

So from that perspective, I think a lot of us kind of try and use the zero tolerance theory. If there is one bad apple in the Senate, it taints all of us. If there is one bad employee, even though you have tens of thousands, it certainly taints the whole agency. And one bad policeman taints a police department.

So I would hope that the NTEU is also aware of that and is continually trying to strive to, you know, upgrade their performance,

do a better job with their customers or, as we call them, constituents.

Mr. TOBIAS. Well, I believe, Mr. Chairman, that every transaction that an IRS employee has is like opening night of a Broadway play; that is, that employee is indeed the face of the IRS, and the IRS is judged ill or well based on that transaction. And I think it is important that employees not only understand that intellectually, but that they be provided the technology, that they be provided the training, and they be provided the time—the time—in order to provide the kind of service that I think employees want to provide.

I believe the employees in the Internal Revenue Service want to provide that service, and if they are provided the time, the technology, and the training, I think you will see many, many fewer of the kind of taxpayer transactions that we have been hearing about over the last year.

Senator CAMPBELL. Well, those of us in the Senate are dealing with it. I think we are determined to make change, and I really think that the Commissioner is also determined to make change. And I would hope that the NTEU is also willing to participate in that and to help effect changes that are going to make it better for everyone, not only employees of the IRS and the Federal Government but the constituents and the average American taxpayer that has to pay the bill.

Mr. TOBIAS. There is no question that NTEU is interested in participating in making the IRS more efficient, more effective, and, most importantly, more responsive to the complaints of the tax-paying public.

Senator CAMPBELL. OK. I thank you.

I thank you for your appearance, and that is the last person who will testify. And, Mr. Tobias, we may have some additional questions to send in, if you would submit your answers in writing.

CONCLUSION OF HEARING

And if there is anybody in the audience who would like to comment on this hearing, if you would submit in writing what you would like us to study and to be included, if you think there are some changes—these bills are working their way through Congress now—we would appreciate you submitting those in about the next 7 days before our hearings are completed.

With that, thank you for your attendance, and that concludes the hearing.

[Whereupon, at 11:58 a.m., Tuesday, April 14, the hearing was concluded and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

MATERIAL SUBMITTED SUBSEQUENT TO CONCLUSION OF HEARING

[CLERK'S NOTE.—The following material was not presented at the hearing, but was submitted to the subcommittee for inclusion in the record subsequent to the hearing:]

PREPARED STATEMENT OF CHARLES PAT SMITH, STATE ADJUTANT, THE AMERICAN
LEGION, DEPARTMENT OF COLORADO

Thank you for the opportunity to appear before this committee to discuss the IRS and The American Legion.

My name is Charles Pat Smith and I am the Executive Director for The American Legion Department of Colorado. The American Legion is a veteran's organization founded in 1919 to assist those returning WWI veterans with their physical and mental problems that they encountered while serving their country. We were founded also to assist the widows and orphans of those who did not return, to promote Americanism and Patriotism in our country, to speak out on issues affecting the security of our country and to enhance the lives of the children of this country. After almost 80 years our mission remains the same today. The American Legion has always enjoyed the status of a non-profit organization under IRS guidelines and we have been provided a group exemption number. The beginning of our preamble to our constitution states, and I quote, "We associate ourselves together for the following purposes: To uphold and defend the Constitution of the United States of America; to maintain law and order * * *." The American Legion truly believes in these precepts. A study of our history will show that we are law-abiding citizens. As an organization we pay our taxes that we are required to pay. We follow the laws of the country as set forth by the Congress of the United States. Where we disagree with the laws we seek to change those laws in a peaceful orderly manner. We use the system of government that we, as veterans, fought to preserve to make meaningful changes for all of our citizens. And that brings us to the subject before us today, abuses by the IRS as they relate to the American Legion, and other non-profit organizations.

Early in the 1930's the Congress of the United States passed a law that required those individuals in our society who sought to enrich themselves through illegal gambling activities to register with the IRS as a professional gambler and to pay one-quarter of one percent (¼ of 1 percent) of their gross "wagers." Those professional gamblers were also required to pay an "occupational tax" of \$50.00. The law was designed to provide a method of prosecuting those "gangsters" of the time who were preying on society since prosecutions and convictions of other types of crimes were hard to come by at that time. The American Legion does not believe the intent of Congress back then was to penalize non-profit organizations for conducting legal charitable gaming activities in their communities. The American Legion does not believe that subsequent changes in the law by Congress and regulations and revenue rulings issued by the IRS apply to our charitable bingo and pull tab operations.

I would like to quote the government's position taken from a recent audit of an American Legion post. Quote, "The fact that an organization is exempt from Federal income tax under section 501 (a) of the Code does not determine whether the taxes imposed by sections 4401 and 4411 are applicable. No provision in the Code exempts a nonprofit organization, as such, from the wagering tax." We would submit to you that no exemption is present in the code because, again, the intent of Congress was to "catch" illegal gambling activities. If, in fact, non-profit organizations are engaging in illegal activities where individuals in the organizations are preying on society then apply the law to those individuals and prosecute them, not the organization.

The IRS has launched a selective attack on American Legion Posts in Colorado. We currently have 88 American Legion Posts and Auxiliary Units conducting legal charitable gambling activities under the state bingo and raffles law. The IRS agents have initiated audits of 13 of those American Legion Post and/or units. The selection

of the posts that they are auditing apparently was random and they are apparently using these posts as their "test bed." It appears that the audits are selective enforcement of the law and they are not conducting their audits consistently across this state. The agents know they are dealing with volunteers and that intimidation is easy. Several of our American Legion Posts have paid the occupational tax and are paying the gross wage fee on a monthly basis. They did so because it was easier to pay than to question whether the law applied to them.

Of the 13 posts currently under audit the finding of tax liability for those 13 amounts to under \$40,000. The American Legion intends to challenge the IRS's determination of liability through the internal IRS appeal process and to tax court, if that becomes necessary. It is our understanding that for the IRS to litigate a case before tax court it will cost the government about \$50,000 per individual case. For the 13 cases pending that would amount to \$650,000 to collect just under \$40,000. How ridiculous. In addition to the cost to the government it will cost the American Legion in legal fees, money better spent in the community.

The IRS believes we are liable for the tax because sometimes proceeds from our charitable gaming activities are used to pay operational expenses for our post homes. Their rationale is that this is illegal because the payment of those expenses constitutes "inurement to the benefit of private shareholders and individuals." Again, how ridiculous. We require our members to pay dues to give them the opportunity to volunteer their time and support the organization with their additional donations. Our post homes are community centers and they do require upkeep and maintenance. Our post homes are used for many activities that benefit the community, including boys and girls scouts, community blood drives, and meeting places for other community based organizations that don't have their own meeting place. For the IRS to say that we can't use those legal gaming proceeds to pay operational expenses is really stretching the law.

The other issue that indicates to us that The American Legion is being singled out for these audits is that they have determined that 501c(4) social welfare organizations are not liable for the tax. The American Legion is a 501c(19) organization; a classification designed for veterans organizations. We meet all the requirements as set forth in the c(4) status, and in fact we were originally a c(4) organization. The difference is that Congress granted The American Legion the c(19) status for two reasons. First to permit us to sell life insurance products to our membership and, second to permit us to spend money in pursuit of issues before Congress affecting veterans and their families, or lobbying if you will. In every other aspect we are a c(4) organization. So the question arises why are we being treated differently, just because we are permitted to lobby Congress? At what point does the liberal interpretation of the law in this case by the IRS cease to be enforcement and become harassment?

So what is the solution? In our view we are not liable for the tax and we will not be intimidated any further by the IRS. We believe they are wrong and we will exercise our rights that we fought for as veterans. Unfortunately that will cost everyone, both money and time. We would ask this committee to ask the IRS Commissioner to look at this situation with The American Legion here in Colorado and to rule on the arbitrary and selective enforcement of the law. We would ask that this committee consider writing into the law a specific exemption for non-profit organizations that will settle the issue and again express the intent of Congress as it existed when the original law was passed. Let's punish the crooks, not the care-giving members of the American Legion and their Auxiliary. Thank you for your time.