

think this is an important protection, because on gift and estate issues, we have the same problem as income taxes, where the Internal Revenue Service enters into a dispute with the taxpayer and, in a system unlike any other system in American society, under existing law, you are guilty until you prove yourself innocent.

This amendment would simply say that if you keep all the records that a prudent person could be expected to keep, and if you turn those substantiation records over to the Internal Revenue Service so there is no question about the fact that you have shared the information you have with them, at that point the burden of proof shifts from the taxpayer to the IRS not only in cases dealing with income tax disputes but in all other types of tax cases as well.

I hope this amendment will be accepted. I have discussed it with both sides of the aisle. I believe it is strongly supported. It does fit within the budget constraint we have in the bill, so I commend this to my colleagues.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, both of these amendments are good amendments. I urge their adoption. I appreciate very much the burden of proof amendment. I think it is very important it apply to all income, and I appreciate the fine work the distinguished Senator from Texas has done.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I, too, congratulate the distinguished Senator from Texas for this amendment. It was our desire that this burden of proof be extended to all types of taxes. I urge the adoption of the amendment.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2374) was agreed to.

Mr. KERREY. Mr. President, I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 2375

(Purpose: To prohibit Government officers and employees from requesting taxpayers to give up their rights to sue)

Mr. GRAMM. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside, and the clerk will report the amendment of the Senator from Texas.

The legislative clerk read as follows: The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2375.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 370, between lines 18 and 19, insert:

SEC. 3468. PROHIBITION ON REQUEST TO TAXPAYERS TO GIVE UP RIGHTS TO BRING ACTIONS.

(a) PROHIBITION.—No officer or employee of the United States may request a taxpayer to waive the taxpayer's right to bring a civil action against the United States or any officer or employee of the United States or any action taken in connection with the internal revenue laws.

(b) Exceptions.—Subsection (a) shall not apply in any case where—

(1) a taxpayer waives the right described in subsection (a) knowingly and voluntarily or

(2) the request by the officer or employee is made in person and the taxpayer's attorney or other federally authorized tax practitioner (within the meaning of section 7525(c)(1)) is present, or the request is made in writing to the taxpayer's attorney or other representative.

Mr. GRAMM. Mr. President, in the hearings that we held in the Finance Committee, over and over again taxpayers, who made compelling cases that they had been abused by the IRS, told us that in response to their efforts to try to stop what they considered to be unfair treatment—whether it was seizure of their home or their business or being accused of things they claim not to have done—one thing that they were consistently required to do by the IRS in order to end the dispute, even though the Internal Revenue Service may have turned up no wrongdoing, was to sign a statement whereby the taxpayers gave up their right to sue the IRS for the abuses that had been imposed on them.

I have talked to Commissioner Rossotti. He has said that he has no objection to this amendment. In addition, my staff has met with the staff of the Treasury Department, and they have suggested some changes which we have made.

Basically, what this says is that if I am in a dispute with the Internal Revenue Service, they can't force me, as part of that dispute, to give up my rights. At the end of the process, if I have done nothing wrong, they can't force me to give up my right to sue them if I feel my rights have been violated.

They can notify my attorney that this is something that could be part of the negotiation. I can voluntarily propose that if we can settle the case today, for example, I would be willing to pay so much and give up this right. But what this amendment does is prohibit the Internal Revenue Service from forcing this provision as part of any settlement. I think it is an important protection.

With these changes, it is my understanding it is supported by my colleagues and I hope it can be accepted at this point.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, again, I congratulate the Senator from Texas for offering the amendment. This addresses a question that became very

clear in our hearings last week that it was a serious problem.

It is my understanding this has been cleared by both sides of the aisle. I urge its adoption.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I also support this amendment. The Senator from Texas has carefully drafted this amendment to make certain that the waiver of the right to sue can still be granted. It is a very important provision in all kinds of negotiations, not just with the IRS. The Senator from Texas drafted it so that right is still preserved, but it just can't be coerced. It can't be coerced.

The IRS supports this amendment. They do not believe it is going to have any impact on the capacity to reach agreements with taxpayers or get non-compliant taxpayers to comply. I urge its adoption.

The PRESIDING OFFICER. Is there any further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2375) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERREY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. POLICY AND THE MIDDLE EAST PEACE PROCESS

Mr. BYRD. Mr. President, I commend the courage and decisiveness displayed by President Clinton and the Secretary of State, Ms. Albright, in attempting to get the Arab-Israeli negotiations back on track. The attacks by some in the other body are disappointing and not helpful. If there has been coercion and strong-arming or unreasonable tactics on the matter of negotiations between Israel and the Palestinians over the last year or so, Mr. President, in my judgment, it has not been on the part of the United States.

The unfortunate reality as I view it, is that the Israeli Prime Minister has pursued a policy of paralysis in the peace process. I think it is unwise for any responsible American leader to suggest that this practice should continue, and the United States should not intervene to get the negotiations underway again in a meaningful way. The Israeli Prime Minister has traveled to Washington before, totally empty-

handed, with no proposal for moving the negotiations forward. In so doing, he has catered to the forces working against progress. He has embarrassed the United States, and all who have supported a peaceful constructive resolution of the issues on the table regarding Israeli and the Palestinians. It is no wonder, given his track record on the negotiations since he became Prime Minister, that the administration has seen fit to require some assurance that another visit to Washington will produce something more than empty rhetoric and more stonewalling. I cannot support more strongly the position of Secretary Albright, that if the Israeli Prime Minister is unwilling to accept some moderate specific American proposals for progress on the West Bank that there is not much point in another fruitless trip to Washington, which might further inflame the situation in the Middle East.

As to the Israeli Palestinian problem, Mr. President, it has always taken three to tango. All parties, the United States, the Palestinians and the Israelis must want the negotiations to move forward, and it is only through compromise that success can be achieved. The United States has used its good offices to broker the negotiations and has burnished substantial financial resources to ensure the stability of Israeli on an unstinting basis. Any one of the parties can derail the negotiations and so it is a measure of the tremendous difficulty the United States has had with the Netanyahu government that the administration has felt it necessary to take specific steps to get the negotiations back on track.

Therefore, Mr. President, I commend the President for this initiative in the interests of getting the negotiations jump-started. I hope that cooler heads will prevail and that all Americans will see the wisdom of supporting a reasoned but decisive approach to the negotiating effort.

Mr. President, I yield the floor.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 2376

(Purpose: To provide for the termination of employment of IRS employees for willful failure to file income tax return or threatening an audit for retaliatory purposes)

Mr. GRAMM. Mr. President, I have one final amendment. I am a little bit hesitant to consume further time so I shall be brief.

I remind my colleagues, we held hearings in the Finance Committee after we wrote the initial bill, and issues arose in those hearings that we want to address in this amendment. I understand that it has been approved by both sides of the aisle.

Basically, we have in the bill a list of offenses for which an employee of the Internal Revenue Service may be terminated. In light of concerns that have arisen since we had the bill before the committee, I want to add two offenses to the list.

One has to do with testimony we heard where members of the Internal Revenue Service were said to be threatening to audit people for personal gain. We heard an assertion that a police officer had stopped an IRS agent and was going to write him a ticket, and the IRS agent allegedly had told the officer that if he wrote the ticket, he was going to get audited.

The second provision has to do with a knowing and willful failure of an IRS agent to file a tax return or pay taxes or declare income. Both of these fit, I think, perfectly into the list of very strong offenses that we have in the bill.

I send the amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside. The clerk will report the amendment of the Senator from Texas.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2376.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 253, line 13, strike "and".

On page 253, line 17, strike the end period and insert a comma.

On page 253, between lines 17 and 18, insert: (8) willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed therefor (including any extensions), unless such failure is due to reasonable cause and not to willful neglect,

(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not to willful neglect, and

(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, again, this amendment addresses a serious problem that came out during the hearings held by the Finance Committee last week.

It is an important change in the law. And I compliment the Senator for propounding it. At the appropriate moment I will urge its adoption.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, the National Restructuring Commission included this provision in our bill. It is in the House bill, or at least provisions in it that dictate that an employee who does a number of things would be automatically terminated.

What the Senator from Texas has done is identified some additional things that ought to be on the list and

once again has carefully drawn it—I believe the language is "willful" and—what was the other word, I ask the Senator? "Willful" and "intentionally."

This would not be a situation where an individual accidentally underpays taxes or misses a deadline or something like that. This is a much higher standard, a much more difficult standard. And I think it is a quite reasonable provision to add to the list of things that would force and require automatic termination.

In general, this legislation is attempting to change the culture by saying here are some things that, if you do it, there are going to be severe penalties. This is obviously a severe penalty. Punitive damages for damages, we have an expanded right for legal fees.

What we are trying to do is change the culture so that there is a new seriousness given to actions taken by the IRS. And all of us understand the penalty needs to be sufficient to meet the offense. I think the amendment of the distinguished Senator from Texas is a reasonable one and I urge its adoption.

Mr. GRAMM. I thank you.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment No. 2376.

The amendment (No. 2376) was agreed to.

Mr. GRAMM. I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I have two amendments that have already been discussed by the senior Senator from Idaho, Senator CRAIG. Both amendments have been cleared on both sides of the aisle.

AMENDMENT NO. 2377

(Purpose: To require disclosure to taxpayers concerning disclosure of their income tax return information to parties outside the Internal Revenue Service)

Mr. ROTH. The first amendment I will offer would require disclosure to taxpayers concerning disclosure of their income-tax return information to parties outside the Internal Revenue Service.

The PRESIDING OFFICER. Is the amendment at the desk?

Mr. ROTH. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment. And by unanimous consent, the pending amendment is set aside.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] for Mr. CRAIG, proposes an amendment numbered 2377.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.