



MEMORANDUM

To: Reporters and Editors
From: Carol Guthrie for Finance Chairman Max Baucus (D-Mont.)
Jill Gerber for Finance Ranking Republican Chuck Grassley (R-Iowa)
Re: IRS critical pay program

Below please find a letter sent today to the IRS Oversight Board by Finance Chairman Baucus and Ranking Republican Member Grassley, on the subject of the IRS Critical Pay Program. The Senate Finance Committee has jurisdiction over the Internal Revenue Service, and Baucus and Grassley consider proper staffing essential to the efficient administration of the IRS. The Senators recently received details from the Treasury Department of a new strategy to close the "tax gap" – the gulf between Federal taxes legally owed and actually paid each year – and have said that they will follow up with the IRS on a number of issues essential to the successful implementation of that plan.

The text of the Senators' letter is below.

August 15, 2007

The Honorable Paul B. Jones
Chairman
Internal Revenue Service Oversight Board
1500 Constitution Avenue NW
Washington, DC 20220

Dear Mr. Jones:

Section 9503 of P.L. 105-206, the Internal Revenue Service Restructuring and Reform Act of 1998, authorizes the Secretary of the Treasury to establish, fix the compensation of, and appoint individuals to, designated critical administrative, technical, and professional positions needed to carry out the functions of the Internal Revenue Service. The Secretary's authority is limited to forty positions with terms not to exceed four years. The authorization exists for a period of ten years after the date of enactment and expires on July 22, 2008. This provision is commonly referred to as the "IRS critical pay program."

On May 31, 2002, IRS Oversight Board (Board) Chairman Larry R. Levitan wrote to Finance Committee (Committee) Chairman Baucus and Ranking Member Grassley following up on the Board's promise to keep the Committee informed about the Board's oversight of the critical pay program. In part, he stated,

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“At the end of each fiscal year, and in conjunction with its review of senior executives who have program management responsibility over significant functions of the IRS, the Board will conduct a review of the streamlined critical-pay program. In its review the Board will address whether the IRS is wisely using critical-pay resources, whether established critical-pay positions are an effective use of critical-pay authority, and whether the expertise of critical-pay hires meets the critical needs of the IRS. The Board will base this assessment on three factors: whether critical-pay hires are assisting the IRS in addressing major challenges, how the program contributes to change management at the IRS, and how the program has introduced innovative ideas and new flexibility to the agency.”

The letter identified the impact of the streamlined authority and its effect on IRS operations as additional factors the Board would consider during its annual review. The Board specifically undertook this initiative in 2002 in response to Committee concerns about the implementation of the critical pay program.

The Committee intends to assess the effectiveness of the critical pay program as it enters its final year to determine whether it should be extended and if any changes should be made to the program. We understand that of the forty authorized critical pay positions, nineteen currently are vacant, and the IRS is actively recruiting only for six positions. We are asking the Board to provide copies of each annual assessment of the program, and all other assessments it has prepared internally or received from other sources, including the IRS. If applicable, please describe any impediments the Board faced in conducting its annual evaluation of the program. We also request that the Board provide answers to the following specific questions:

1. How effective is the critical pay program? Please provide examples of the program's successes and failures.
2. To what extent could the IRS have attracted candidates with the requisite skills, knowledge and abilities through the regular government pay schedules?
3. Should the critical pay program be renewed? If so, please list the reasons why it should be renewed. Describe the types of candidates or positions that should be sought or filled through the critical pay program.
4. If authorization is not renewed, how could the IRS adapt its staffing to accommodate the vacancies created by the expiration of critical pay?
5. What would be the effect on tax administration if authorization is allowed to expire? Please provide your analysis.
6. Do you believe the critical pay authority ever was misused? Please provide examples of situations that raised the Board's concerns.

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We also request that the Board provide recommendations and explanations to the Committee as to whether the program should be extended, and to what extent changes to the program should be made to improve its effectiveness.

We are asking that you respond to this inquiry by August 31, 2007. Any questions concerning this matter should be directed to Mary Baker or Dean Zerbe. They may be contacted at (202) 224-4515.

Sincerely,

Max Baucus
Chairman

Charles Grassley
Ranking Member

cc: The Honorable Henry M. Paulson, Secretary, Department of the Treasury
Kevin M. Brown, Acting Commissioner, Internal Revenue Service