

GAO AUDITS OF INTERNAL REVENUE SERVICE AND  
THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

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MAY 20, 1976.—Ordered to be printed

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Mr. LONG, from the Committee on Finance,  
submitted the following

**REPORT**

[To accompany H.R. 8948]

The Committee on Finance, to which was referred the bill (H.R. 8948) to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

**I. SUMMARY**

H.R. 8948, as referred to the Committee on Finance, would specifically authorize the Comptroller General of the U.S. General Accounting Office (GAO) to conduct independent audits of the Internal Revenue Service (IRS) and the Bureau of Alcohol, Tobacco, and Firearms (ATF) of the Department of the Treasury and have access to tax returns and tax return information. The bill passed the House on October 15, 1975, and was reported by the Senate Committee on Government Operations on April 14, 1976. H.R. 8948 was then referred to the Committee on Finance with an agreement that the referral was not to extend beyond May 20, 1976.

The Committee on Finance acted to further amend the bill so that the General Accounting Office may conduct management and financial audits of the IRS and ATF, but that any access to tax returns or tax return information may be made only after authorization is approved by the Senate Committee on Finance, the House Committee on Ways and Means, or the Joint Committee on Internal Revenue Taxation (the committees having jurisdiction over the tax laws).

## II. PRESENT LAW

The Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms (which was once part of the IRS), with concurrence by the Treasury Department, have taken the position that the GAO, in its review of the management of the IRS, lacked the independent authority to obtain access to IRS tax records relating to its administration of the internal revenue laws.

This position has been based primarily on three sections of the Internal Revenue Code. Section 6406 states that the findings of fact in, and the decisions of the Secretary of the Treasury, or his delegate, on the merits of any claim under the internal revenue laws and the allowance or nonallowance of any interest on any credit or refund, shall not be subject to review by any other administrative or accounting officer, employee or agent of the United States. Section 8022 provides that it shall be the duty of the Joint Committee on Internal Revenue Taxation to investigate the administration, operation and effects of the Federal system of taxation. The position taken by IRS and Treasury in the past with respect to section 8022 is that it confers exclusive authority upon the Joint Committee on Internal Revenue to investigate the IRS' administration of the tax laws and, accordingly, GAO's access to tax records is limited to the situation where it is acting as an agent of the Joint Committee on Internal Revenue Taxation or other congressional committees specifically authorized by law to have such access. In addition, it is argued that since section 6103 (relating to disclosure of tax return information) does not mention the GAO (a congressional agency) as having access to tax return information but does refer to certain congressional committees having access to such tax information, GAO access to tax records would have to be based upon authorization from one of these congressional committees.

The Joint Committee on Internal Revenue Taxation has in recent years requested the GAO to act as its agent in conducting a number of reviews of IRS and ATF administration of various aspects of the tax laws. These audits of the IRS by GAO, as the agent of the Joint Committee on Internal Revenue Taxation, have always entailed the access, if necessary, to tax records.

The GAO claims that it has the right to inspect tax records as part of its statutory responsibility to make an independent management audit of Federal agencies under section 312(a) of the Budget and Accounting Act of 1921, which provides that the Comptroller General shall investigate all matters relating to the receipt, disbursement, and application of public funds, and that he shall make recommendations to the Congress looking to greater economy or efficiency in public expenditures.

The GAO also refers to section 117(a) of the Accounting and Auditing Act of 1950, which provides the Comptroller General with additional authority to determine the principles and procedures to be used in conducting such audits. Also cited is section 204(a) of the Legislative Reorganization Act of 1970, as amended by the Congressional Budget and Impoundment Act of 1974, which requires the Comptroller General to review and evaluate the results of Government programs carried on under existing law.

### III. H.R. 8948, AS REPORTED BY THE COMMITTEE ON GOVERNMENT OPERATIONS

As passed by the House and reported by the Senate Committee on Government Operations (S. Rep. No. 94-752), H.R. 8948 would authorize the Comptroller General of the U.S. General Accounting Office (GAO) to conduct independent audits of the IRS and ATF, as well as to have access to any tax records necessary to conduct such audits. The bill provides for this access to tax return information notwithstanding the provisions of sections 4424(a) (relating to wagering tax return information) and 6103 (relating to disclosure and publicity of income tax return information) of the code or the provisions of any other law.

The bill specifically states that the finality of decisions by the IRS or Secretary of the Treasury regarding tax liability, under section 6406 of the code, is not to be affected by such GAO audits. In addition, the bill would prohibit any unauthorized disclosure of such tax return information by an employee of GAO, including the identity of any taxpayers, except for disclosure to a congressional committee authorized by law to have access to such tax records. In this connection, the bill provides that the penalties of present law for unauthorized disclosure of tax returns and return information are made applicable to GAO employees receiving such tax information in connection with GAO audits.

The Senate Committee on Government Operations added the requirement for regular reports (at least every 6 months) by the Comptroller General with respect to the name and position of GAO officers and employees having access to tax return information which may directly identify a taxpayer in connection with a GAO audit of the IRS or ATF. In addition, the Comptroller General is to submit an annual report on the procedures and requirements which the GAO, IRS, and ATF have established for protecting the confidentiality of tax returns and tax return information, the scope and subject matter of any audit or other examination or review which has been authorized and any findings, conclusions or recommendations developed by the Comptroller General as a result of any such audit, examination or review. These reports would be made to the Joint Committee on Internal Revenue Taxation and the Government Operations Committees of the House and Senate. Further, the Comptroller General is to report to the Congress, as frequently as may be practical, the results of audit work performed.

### IV. FINANCE COMMITTEE AMENDMENT

The Committee on Finance has agreed to report, with amendments, H.R. 8948 as referred to it by the Committee on Government Operations. The first amendment would limit the access of the General Accounting Office to tax return information to those instances where authorization is approved in writing by and under the supervision of the Senate Committee on Finance, the House Committee on Ways and Means, or the Joint Committee on Internal Revenue Taxation (the committees having jurisdiction over the IRS and ATF). Otherwise, the authority for an independent audit of the general operations and

administration of the IRS or the ATF as included in H.R. 8948 is unchanged.

The Committee on Finance believes that there should continue to be authorization and supervision by the congressional tax committees now having specific access to tax return information for GAO to have access to tax returns. The committee notes that the Joint Committee on Internal Revenue Taxation has in recent years requested the GAO to act as its agent in conducting reviews of various aspects of tax administration by the IRS and ATF. This working relationship appears to be satisfactory at the present time, with the GAO having access to tax return information, if necessary, in conducting its audits for the Joint Committee. The committee expects, as has been the case under the existing relationship with GAO and the Joint Committee on Internal Revenue Taxation, that authorization will be given to any audits that GAO believes appropriate to make which may require the use of tax returns and related tax information. In this connection, the committee believes it is appropriate to have the supervision of these audits by the tax writing committees, as is presently the case in the audits that have been requested by the joint committee. The committee believes that this is important to assure the continuation of the privacy of tax returns.

The second amendment approved by the committee is to add the Senate Committee on Finance and the House Committee on Ways and Means as recipients of the required reports by GAO. This is because these committees now have authorization jurisdiction over the IRS and ATF.

The committee also points out that it will be reviewing various proposals dealing with the subject of the tax return disclosure in its consideration of the House-passed bill, H.R. 10612, now before the committee. There has been an increasing concern in the Congress relative to tax return privacy, and the committee intends to review carefully all proposals before the committee. In this connection, the committee will review the GAO access to tax returns relative to any overall tax return privacy provision.

#### V. COSTS OF CARRYING OUT THE BILL AND EFFECT ON THE REVENUES OF THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the costs to be incurred in carrying out this bill and the effect on the revenues of the bill.

The bill, H.R. 8948, as amended, proposes only changes in administrative procedures. No changes in revenues or costs are proposed; consequently there is no budgetary impact with respect to the bill.

#### VI. VOTE OF COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act, as amended, the following statement is made relative to the vote of the committee on reporting the bill. This bill was ordered favorably reported by the committee by a voice vote.

## VII. CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be changed in black brackets, new matter in italic, existing law in which no change is proposed to be made in roman) :

## SECTION 117 OF THE ACCOUNTING AND AUDITING ACT OF 1950 AUDITING PROVISIONS

SEC. 117. (a) Except as otherwise specifically provided by law, the financial transactions of each executive, legislative, and judicial agency, including but not limited to the account of accountable officers, shall be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. In the determination of auditing procedures to be followed and the extent of examination of vouchers and other documents, the Comptroller General shall give due regard to generally accepted principles of auditing, including consideration of the effectiveness of accounting organizations and systems, internal audit and control, and related administrative practices of the respective agencies.

(b) Whenever the Comptroller General determines that the audit shall be conducted at the place or places where the account and other records of an executive agency or the Architect of the Capitol are normally kept, he may require any executive agency or the Architect of the Capitol to retain in whole or in part accounts of accountable officers, contracts, vouchers, and other documents, which are required under existing law to be submitted to the General Accounting Office, under such conditions and for such period not exceeding ten years as he may specify, unless a longer period is agreed upon the executive agency: *Provided*, That under agreements between the Comptroller General and legislative (other than the Architect of the Capitol) and judicial agencies the provisions of this sentence may be extended to the accounts and records of such agencies.

(c) The Comptroller General in auditing the financial transactions of the Architect of the Capitol shall make such audits at such times as he may deem appropriate. For the purpose of conducting such audits the provisions of section 313 of the Budget and Accounting Act (42 Stat. 26; 31 U.S.C. 54) shall be applicable to the Architect of the Capitol. The Comptroller General shall report to the President of the Senate and to the Speaker of the House of Representatives the results of such audit. All such reports shall be printed as Senate documents.

(d) (1) *The Comptroller General shall make, under such rules and regulations as he shall prescribe, audits of the Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury; provided, That such audits shall not affect the finality of findings or decisions of the Secretary of the Treasury or his delegate under section 6406 of the Internal Revenue Code of 1954.*

(2) For purposes of, and to the extent necessary in making the audits required by paragraph (1) of this subsection, representatives of the General Accounting Office—

(A) shall, notwithstanding the provisions of sections 4424(a) and 6103 of such Code and the provisions of any other law, have access to tax returns and tax return information described in sections 4424(a) and 6103 with the written approval, and under the supervision of, the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, or the Joint Committee on Internal Revenue Taxation; and

(B) shall, notwithstanding the provisions of any other law, have access to all other books, accounts, financial records, reports, files, papers, things, and property belonging to or in use by the Internal Revenue Service or the Bureau of Alcohol, Tobacco and Firearms:

Provided, That no officer or employee of the General Accounting Office shall, except to the extent authorized by section 6103(d) of such Code, divulge or make known in any manner whatever to any person, other than another officer or employee of such office whose official duties or responsibilities require such disclosure, any tax return or tax return information described in section 4424(a) of such Code in a form which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer: And provided further, That no officer or employee of the General Accounting Office shall, except as otherwise expressly provided by law, divulge or make known in any manner whatever to any person, other than another officer or employee of such office whose official duties or responsibilities require such disclosure, any other tax return or tax return information, or any information described in clause (B), in a form which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer. Any such officer or employee who makes a disclosure in violation of either of the foregoing provisos shall be subject to the penalties provided by law.

(3) The Comptroller General shall, from time to time, but not less often than once every 6 months, designate in writing the name and title of each officer and employee of the General Accounting Office who, pursuant to the provisions of paragraph (2) of this subsection, is to have access to tax returns and tax return information, or any information described in clause (B) of such paragraph (2), in a form which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer. Each such written designation, or a certified copy thereof, promptly shall be delivered to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Joint Committee on Internal Revenue Taxation, the Government Operations Committees of the House of Representatives and the Senate, the Commissioner of Internal Revenue, and the Director of the Bureau of Alcohol, Tobacco, and Firearms.

(4) The Comptroller General shall, as frequently as may be practicable, make reports to the Congress on the results of audit work performed. In addition, the Comptroller General shall submit an annual written report to the committee on Ways and Means of the House of

*Representatives, the Committee on Finance of the Senate, the Joint Committee on Internal Revenue Taxation, and the Government Operations Committees of the House of Representatives and the Senate which report shall include, but shall not be limited to, the following:*

*(A) The procedures and requirements which the General Accounting Office, the Internal Revenue Service, and the Bureau of Alcohol, Tobacco and Firearms have established for protecting the confidentiality of tax returns and tax return information made available to the Comptroller General under this subsection;*

*(B) The scope and subject matter of any audit or other examination or review authorized under paragraph (1) of this subsection; and*

*(C) Any findings, conclusions, or recommendations developed by the Comptroller General as a result of any audit or other examination or review authorized under paragraph (1) of this subsection including any significant evidence of inefficiency or mismanagement.*

