

SIMPLIFYING INCOME TAX RETURNS

HEARING
BEFORE THE
SUBCOMMITTEE ON ADMINISTRATION OF THE
INTERNAL REVENUE CODE
OF THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
NINETY-FIFTH CONGRESS
SECOND SESSION

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MARCH 28, 1978
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SIMPLIFYING INCOME TAX RETURNS

TUESDAY, MARCH 28, 1978

U.S. SENATE,
SUBCOMMITTEE ON ADMINISTRATION OF THE
INTERNAL REVENUE CODE,
COMMITTEE ON FINANCE,
Colorado Springs, Colo.

The subcommittee met, pursuant to call, at 9:30 a.m., in the commissioners' board room, county office building, Colorado Springs, Colo., the Honorable Floyd Haskell, chairman of the subcommittee, presiding.

Present: Senator Haskell.

[The committee press release announcing this hearing follows:]

[U.S. Senate, Committee on Finance, press release]

SUBCOMMITTEE ON ADMINISTRATION OF THE INTERNAL REVENUE CODE
ANNOUNCES HEARINGS ON CURRENT TAXPAYER PROBLEMS

Senator Floyd K. Haskell (D-Colo.), Chairman of the Subcommittee on Administration of the Internal Revenue Code, today announced that a hearing will be held on March 28, 1978, in Colorado Springs, Colorado on problems being encountered by taxpayers filing this year's Federal income tax return. The hearing will be in the El Paso County Office Bldg., 27 East Vermijo, Colorado Springs, Colorado, Commissioner's Board Room, 3rd Floor, and will begin at 9:30 A.M.

The hearing of the Subcommittee is open to the public.

The following witnesses have been scheduled to testify: Walter T. Coppinger, Regional Commission (Dallas), Gerald L. Muhlbacher, District Director (Denver), Internal Revenue Service, and Henry W. Bloch, President, H&R Block.

A Panel consisting of: Jack B. Anderson, C.P.A., Barbara Lundstrom, Lucy Bueno, Ruth Castagnerie, and Marshall McClung, Esq., Director, Park County Department of Social Services.

Senator Haskell, in announcing the hearings, stated that the Subcommittee hopes to learn about the current problems confronting taxpayers and if matters have improved since passage of the Tax Reduction and Simplification Act of 1977. (The Act, among other things, increased the standard deduction for almost all taxpayers and built into the tax tables the personal exemptions, standard deduction and general tax credit so as to simplify computations and allow 96 percent of all taxpayers to use the new tax tables.)

We want to find out if taxpayers' problems with the forms and the tax laws are getting better or worse. Also, we want to see whether more or fewer taxpayers feel able to fill out their own returns; what the situation is with IRS taxpayer assistance programs and commercial return preparation; and what special problems may exist for particular groups such as low-income and elderly taxpayers.

Most importantly, we want to find out what can be done now—this year—to improve the forms and the provisions of the law most often affecting average taxpayers.

I believe, Congress should pick out those areas of needless complexity and unfairness which adversely affect large numbers of taxpayers and move ahead.

Taxpayers deserve a break, both in the form of tax cuts, as proposed by President Carter, and effective tax simplification—as soon as possible.

Those individuals who desire to testify at the hearings should submit a written request to Michael Stern, Staff Director, Committee on Finance, Room 2227 Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on March 21.

Legislative Reorganization Act.—Senator Haskell stated that the Legislative Reorganization Act of 1946, as amended, requires all witnesses appearing before the Committees of Congress “to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument.”

Witnesses scheduled to testify should limit their oral presentation to ten minutes.

Written Testimony.—Senator Haskell stated that the Subcommittee would be pleased to receive written testimony from those persons or organizations who wish to submit statements for the record. Statements submitted for inclusion in the record should be typewritten, not more than 20 double-spaced pages in length and mailed with five (5) copies by April 15, 1978, to Michael Stern, Staff Director, Committee on Finance, Room 2227 Dirksen Senate Office Building, Washington, D.C. 20510.

Senator HASKELL. Ladies and gentlemen, we will commence the hearing.

I would like to state the purpose of the hearing although some of you may know it already.

All of us represent various backgrounds and occupations and yet we share a real responsibility as U.S. taxpayers. Our main concern in the hearing this morning will be to find ways to make the annual process of completing tax returns less complicated for all of us.

OPENING STATEMENT BY SENATOR HASKELL

Senator HASKELL. I have been an advocate of tax reform for many years. By reform I mean returning the tax system to one which is simple, fair, and progressive. This morning we will discuss simplification.

We will explore the impact of the 1977 Tax Reduction and Simplification Act; whether the filing process has been improved with the new simplified tax tables, whether the zero-bracket amount is a blessing or a burden; and whether anyone can figure out how to average income.

I will look forward to the day when every American who so chooses can prepare his or her own tax returns. It must be our objective in Congress to simplify the forms to an extent that the tax preparer will become a convenient alternative and not a necessity.

In recent years, more than 50 percent of all income groups have used tax preparers. Of this 50 percent, only 3 percent of the returns are prepared by the IRS. Each year approximately \$600 million is paid to tax preparers. One reason people go to commercial preparers instead of the IRS is because State forms are complicated and different from the Federal forms. The IRS assists only in the preparation of Federal returns and for many people it is more convenient to use a commercial preparer who will assist in the preparation of both returns.

But another reason, of course, that people go to preparers is for some reason they feel they'll get a better break from the commercial preparer, and we will explore this today.

But it is no wonder that people seek professional help. In 1977 an HEW study showed that reading the form 1040 instruction required a college-level education.

In an attempt to clarify things, the instructions for the 1040 forms have gone from 1 page in 1913 to 40 pages in 1975. Is the problem the forms or is it the underlying Tax Code? I believe that it is the Tax Code. If we take certain gray areas of the law and make them black or white, this sharpened picture could then be reflected on the forms.

I have introduced a bill calling for a study to find ways to simplify the tax provisions and forms relating to low income, disabled, and retired taxpayers; cases involving medical interns and residents, sales and exchanges of residences, income averaging; cases involving divorced individuals and the payment of alimony and child support; and a means of eliminating the so-called marriage penalty.

I have also directed that the study consider the feasibility of having senior citizens file their returns on June 15 instead of April 15 so that they do not have to go out in the colder months to obtain taxpayer assistance. They also should be able to make scheduled appointments at the IRS so that they don't have to wait in line to have their questions answered.

I intend to take the information gathered at this hearing today and use it in this study in hopes that we will arrive at some solutions to these problems in the very near future.

Now, I would like to welcome as the first witnesses at this hearing Walter T. Coppinger who is regional commissioner, Internal Revenue Service, located in Dallas, and Gerald L. Muhlbachler, who is district director, located in Denver, of the Internal Revenue Service.

Gentlemen, if you would come up to the table, we will proceed.

Mr. COPPINGER. If you don't mind, we would like to have Mr. W. B. Riley who is regional counsel, accompany us to the witness stand.

Senator HASKELL. By all matter and means.

Gentlemen, whoever wants to go first, go ahead.

STATEMENT OF WALTER T. COPPINGER, COMMISSIONER, SOUTH-WEST REGION, INTERNAL REVENUE SERVICE; ACCOMPANIED BY W. B. RILEY, REGIONAL COUNSEL

Mr. COPPINGER. Senator, I am very pleased to be here today and have a chance to work with you in what I consider to be a most important worthwhile endeavor for the people of the United States. I'm impressed by your understanding of the problems that confront the taxpayers and the Service. I've had a chance to read the bill that you introduced and I'm very gratified to see the way in which you've structured your proposal.

Senator HASKELL. Thank you.

Mr. COPPINGER. I have a prepared statement which I'd like to introduce into the record.

Senator HASKELL. We will put that in the record. It will be reproduced in full, and you just go ahead and talk.

Mr. COPPINGER. What I'd like to do is sort of summarize my prepared statement because I believe it is much more important for us to get into some sort of a dialog and discuss the items you consider to be most important.

Senator HASKELL. I think so, too.

Mr. COPPINGER. And I'm here to help you.

As you pointed out in your address to the Senate on the bill, we have to be specific when we talk about simplification of the tax law. And one of the most difficult aspects of achieving tax simplification is without a doubt how to solve the complexity-equity dilemma. It is difficult partially because the Government in this country has an abiding concern for equity, and follows a theory of taxation based on ability to pay, that complexity has resulted.

For example, the law would be simpler with no itemized deduction for medical expenses. But who would argue that the Government should place even heavier burdens on our citizens whose ability to pay has been decimated by the very high cost today of extraordinary medical expenses. So some complexity is therefor inevitable in order to achieve equity and follow the principle of ability to pay.

But I agree with you. We need to work to reduce those areas of complexity.

Our job in the Service, as you know, is to administer the tax laws as they exist. We can and do help in the legislative process by offering the benefit of our advice and experience. But these decisions rightfully are up to the Congress.

I understand that the legislation you have introduced deals with many of the areas that cause considerable difficulties for the Service in preparing tax returns for individuals that come to the Service for help.

Until changes are made, however, the Service is continuing to improve and expand its capabilities to deal with the problems and improve taxpayer service on a continual basis.

I believe that Chairman Rosenthal of the Subcommittee on Commerce, Consumer and Monetary Affairs recently complimented the Commissioner on improvements being made.

A big step in assisting taxpayers, as you probably know, in finding their way through this bureaucratic maze is through the establishment of problem resolution offices in all districts. This region was blessed by having two of the test districts that dealt with—as we call it—problem resolution procedure. And we came away convinced that taxpayers very often are confounded and discouraged, and sometimes frightened, in trying to deal with governmental agencies, especially one with the power to tax; and therefore they need some special representation that had links to the executive offices of the Service. So problem resolution, in our view in the southwest—and it is the view that is now being adopted on a nationwide basis—is to place that office, which helps deal with points of controversy and friction with the Service, immediately under the office of the district director, like Mr. Mihlbachler who is here with me today.

In addition to these steps, we're looking at the administrative appeal system. There will be some changes in that appeal system

announced very shortly, probably the latter part of this week or early next week—the so-called one-level of appeal.

We have also, in connection with the appeal system, made very diligent efforts to make sure the taxpayers are informed of their rights. Data that I have recently examined indicates that we have been very successful in doing this. In fact, the number of small cases in which taxpayers do pursue their appeal rights has grown rather dramatically in recent years.

Along with this, however, we, in this region, have entered into a very important test project with Southern Methodist University Law School where third-year law school students are offered as representatives to taxpayers when they become involved in a tax controversy with the Government in connection with an audit. The test program in the southwest is different than it has ever been in any other situation in the United States in view of the fact that in this program the Service actively cooperates with the university. In other words, we notify the taxpayer that the representation is available. Of course, this is limited to the city of Dallas right now. In other situations where law schools have represented taxpayers, the law school had to pay for advertising, utilize word-of-mouth or some other means to secure clients. We encourage the taxpayer in our situation to seek the help of a law student in order to be assured, hopefully, of getting a square deal.

Senator HASKELL. How did that program get started, the SMU program? That's one of the matters I wanted to go into further.

Mr. COPPINGER. It got started as a result of the fact that several years ago there was quite a bit of discussion with respect to the creation of an ombudsman office. And as you might suspect, there were varying reactions within the Internal Revenue Service and outside the Internal Revenue Service in connection with this. And, of course, many people opposed it very vigorously. I felt like those who opposed it were doing it more out of ignorance, and there was really no data as to what happens when outside free counsel is provided to the taxpayer. Before the Service could effectively discuss such a thing as an ombudsman with Congress or with anybody else, we needed some experience.

So I approached Dean Galvin of the SMU law school and told him that I thought that the Service and SMU could work to the benefit of the Government and the taxpayer in a way that would provide some good information and that I thought SMU had a means of selling the idea to its supporters since it had a civic responsibility. Thankfully, Dean Galvin said, "Yes, I think we do."

Of course, SMU in the last 2 years has invested substantial amounts of money in pursuing this program. They've hired additional people to monitor the students; and in addition to that, we now, each semester, get students admitted to practice before the Internal Revenue Service.

So, we're learning a number of things out of that project. We're learning that most of the controversies between the Service and the taxpayers are controversies with respect to fact and substantiation. And oddly enough, once a law school student representative is introduced, the taxpayer gets the substantiation, the records.

Now, this raises questions that we have not yet answered. For example, does the taxpayer produce records because someone outside is more convincing than we are in seeking them? Has the taxpayer failed to produce them because we don't do our job well enough in explaining alternative methods of substantiation?

For example, let's take a man who travels in his own automobile and he doesn't have adequate mileage records. And so we ask him to substantiate the business trips he took. He says, "Well, I'm sorry, I didn't keep a log."

Well, the Service could say, "We're sorry but without substantiation we can't allow you the deduction the way section 274 has been written." But if our people extend themselves, as we believe they should and we encourage them to do, they could tell the taxpayer:

Well, obviously you've got some customer sales tickets that show you were on a business trip on such and such a date. A map will show us that there's so much mileage between the two points and you may have some gasoline tickets. Obviously, the car was repaired sometime during the year and we can find out total mileage by that. We can come up with a ratio between business and personal miles.

One of the other disturbing things about the test is that there are so many cases where SMU represents the taxpayer, and there is a complete reversal where a deficiency turns into a refund. And so we're asking questions about why this occurs.

Now obviously we're dealing with cases where we know there is a controversy to start off with. But to summarize, we've learned a lot; the project has posed a lot of new questions that we need to answer and I think SMU needs to be commended.

Senator HASKELL. I think both you and SMU should be commended. This is one of the areas which I think has caused difficulty and perhaps resentment in mid-income taxpayers, that is, without great expense they cannot get some kind of assistance.

Mr. COPPINGER. That's correct. It also adds another dimension to this question about where the difficulty lies, is it in the tax law or the forms. The problem is very deep and very broad because substantiation, proof, is one of the biggest hazards that taxpayers have even in preparing a tax return. It takes very little time to prepare the tax return in comparison to the amount of time it takes to get the records together, especially if you haven't been diligent during the year in keeping records.

Some of the requirements for proof in the law are very, very difficult to comply with; and many taxpayers face some of them every day. For example, many taxpayers in the United States, as their parents grow into what are referred to as their golden years, assume the responsibility as children of supporting their parents. Now the law provides that if you support your parents they meet the relationship test, you're entitled to claim them as an exemption. But the problem becomes very difficult especially when parents, as they most often want to do, want to live in their own homes. The question then becomes who provides over half of the support. You can imagine not only the real problems but the psychological problems people have by in effect "keeping books and records" on mom and dad. Because to be able to conscientiously put on the tax return that you provided more than half their support, for your mother and father, requires that

you be able to know with some certainty that you did so, especially if you anticipate being audited. And to be able to sustain that burden of proof or even to be quiet in your own mind that you've done that, you need to have the cost of the meals, lodging, medical expenses; and if you have your parents in your own home, you need to be able to come up with the fair rental value of the space which you provide for your mother and father.

So you see while that one section of the law is very simple—I shouldn't say simple—while it does not look to be extraordinarily difficult, the substantiation burdens are another element that we need to look at in connection with our efforts to simplify the tax law.

There is another matter that I think needs to be looked at very carefully—and I know I'm not telling you anything that you don't already know. We can simplify the tax law today—as it relates to the average man, and that's what you and I are talking about, I'm sure—and tomorrow as a result of what we as taxpayers do to ourselves in trying to find deductions or shortcuts to greater tax benefits that Congress didn't intend, we get involved in the courts.

As a result tax law is the most prolific field of law because there are now decisions made everyday which complicate statutes, resulting in Congress having to plug loopholes which makes the law more complicated or makes the Service apply administrative law techniques that again complicate the law.

In any event, as you probably know, in an effort to try to deal with all these problems and communicate with the taxpayers, we in the Service run a number of programs and some of them are designed to help the elderly, the physically handicapped and those who have some language difficulties.

One of these programs is very widely known and referred to as VITA, volunteer income tax assistance, and that program has been expanded this year as a result of additional resources being provided by the Congress.

In addition to that, in this region we have worked very hard to improve service to taxpayers who have language difficulties. We have adopted what I believe is a unique concept which is that we want to work with people in what we refer to as their "language of convenience." In this part of the world Anglos very often will say that a Hispanic speaks English and you don't need to deal with him in the Spanish language. To me, that's an abomination because in many cases, while the Hispanic may speak English, they can't represent themselves well and can't communicate well in English and we need to recognize that and deal with them in a language in which they are most comfortable.

It is very distasteful for a bureaucracy to require an individual to work in an uncomfortable medium. So, we have surveyed all of our offices to determine the extent to which we need to provide Spanish-speaking capability. We hire assistants, using special selection techniques, who are fluent in the Spanish language; and we have found this helps immeasurably, not only in resolving problems in dealing with the Spanish-speaking but also in providing them with a more comfortable atmosphere in which to deal with the Government.

The same thing is true with Indians, but we have not made as much progress in that area. Frankly, as you can probably tell from my

accent—for an old Georgia boy—I'm constantly amazed at the multitude of Indian dialects or languages that we would have to master. We're going to work on it, we're not going to give up; but it's another challenge that we have to face.

So briefly these are some of the things that we're doing in our commitment, along with you, to simplify the administration of tax laws and the tax forms. This year we've made some strides in that area. In fact, as part of a longer statement that I introduced for the record, there is a statistical table showing the error rates on returns filed this year are down very substantially, not only with respect to returns prepared by the Service but by return preparers and by taxpayers. Those error rates—I'll just generalize—were down in the neighborhood of 25 to 30 percent.

Senator HASKELL. To what do you attribute that?

Mr. COPPINGER. I would attribute it to a number of things. First of all, the help that we got from Congress in the 1976 tax reform law. Secondly, the revision of the 1040 form and the building into the tax table of the zero bracket amount.

Now, I dislike having new terms introduced into the tax language as much as anybody, and at first I was a little disconcerted about this new "zero bracket amount." While I know it has caused us some problems in connection with income averaging, we can really attribute a very substantial decrease in math errors to the way the tax tables included the zero bracket amount. This change reduced the computations that taxpayers have to make. The flow of information on the tax return in a logical sequence this year also reduced confusion.

I think if we can work toward some stabilization and simplify the law as much as we can for the average person—it will never be simple for large corporations and wealthy individuals—then we'll reduce errors even more.

I know that most people do just exactly like I do. They take out last year's tax return and compare one item to the other. Everytime we move it around, we cause problems. But we're at the stage in our development now where it really doesn't make any sense to say we're going to leave a bad situation like it is merely to maintain consistency. But I do hope that someday we get to the point where we can reach some stabilization in the way that form is constructed and the way it works. That requires stability in the law and some success—

Senator HASKELL. In simplification.

Mr. COPPINGER. Right.

Senator HASKELL. I mentioned a few problem areas, and we agree that the area of focus is the average taxpayer, the middle- and low-income taxpayer. As you and I were discussing outside, if a big corporation like General Motors were to walk in and ask you to prepare their return, you'd say, "Whoa!"

Mr. COPPINGER. Obviously.

Senator HASKELL. What we're looking at for simplification purposes are the sections of the Code that affect a lot of people. I'm sure I haven't covered them all. Perhaps you can suggest a few sections now. I mentioned retirement income, income averaging, earned income credit, medical expenses, alimony; if you could perhaps supply now and then supplement for the record the sections that affect a lot

of people which you think could be simplified, that would be very helpful.

Can you think of a few things now that I haven't mentioned?

Mr. COPPINGER. Sure. Off the top of the head, you know, one of them I mentioned before, 174 relating to travel and entertainment.

Mr. RILEY. 274.

Mr. COPPINGER. Section 274. You'll recall in the 1940's, 1950's, and 1960's, there was a great deal of difficulty in connection with the so-called Cohan rule. Congress reacted as a result of the problems the Service had and problems that people who prepared tax returns had because people always wanted to rely on the Cohan rule. Section 274 strengthened the Code with respect to substantiation. So it helped, but one of the big problems today is achieving uniformity and getting the understanding of taxpayers to the requirements under section 274. Frankly, I think we went a little far.

Now, I maintain an active liaison with professional groups. In fact, I'm a certified public accountant and I stay active there. I know that the professionals want to see the Service strictly enforce 274 because it helps them with their clients to maintain the kind of records that are needed. But in trying to do so, we also create some undue hardships, and there is complexity in that section.

Travel and entertainment tax law affects a lot of middle- and low-income taxpayers. This is a nation of outside salespeople; we've got them all over the roads in the United States selling their wares. It is very difficult for those people to maintain the records that are necessary. Section 274 is a very difficult area.

Another area that the Service struggles with and has struggled with for years is the question of "tax home." It is very difficult for individuals and impacts a lot of low-income taxpayers. Construction workers leave Colorado Springs headed for Salt Lake City, Utah, to work on a construction project. We get into the question of whether the employment is temporary, indefinite, or indeterminate; and hundreds of cases are in this area because of the complexity of determining whether those expenses are deductible or not.

As you know, the Service has had sort of an administrative law that has been followed over the years—"away from home overnight." The overnight part was added by the Service and supported by the courts in determining what would be deductible.

Again, we have a travel expense item that seems to be a fairly simple area but has turned out to be very complicated in its administration.

So here are three quick areas in which congressional study and help would be very beneficial and would impact the taxpayers we're talking about, the low- and middle-income wage earner who is the individual confounded by the tax laws.

Senator HASKELL. That's very helpful. Could you supply perhaps for the record within 2 weeks, the period in which the hearing record will stay open, additional areas which you think should be looked into?

Mr. COPPINGER. I would be happy to do that, Senator. I would be glad to do it.

Senator HASKELL. I would really appreciate it.

[The following was subsequently supplied for the record:]

Internal Revenue Service

Department of the Treasury

Regional
Commissioner

Southwest Region

P O Box 5781 Dallas Texas 75222

26 MAY 1978

The Honorable Floyd K. Haskell
Chairman, Subcommittee on Administration
of the Internal Revenue Code
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

During your recent hearing in Colorado Springs, you requested that I provide you my views on two subjects. These were: (1) areas of tax law complexity which hamper the "average" taxpayer's efforts to meet his/her tax obligations and (2) the need for a discrete organization to review deficiencies proposed by examiners on individual income tax returns.

In the first enclosure to this letter, I have defined those areas which in my experience contribute to problems which some taxpayers have in meeting their tax obligations. These areas are in addition to those mentioned in your proposed legislation, S-2747. Also, I would like to emphasize that while these provisions of the tax law do contribute to complexity in tax administration, my listing of them does not constitute a condemnation or a recommendation for revision. However, I do believe that these provisions are appropriate for study under the ground rules of S-2747.

The opinions which I have expressed on these subjects are my own opinions. They are based on my own experience, and do not necessarily reflect the opinions or experience of the Internal Revenue Service.

In the second enclosure, I have stated briefly my reasons for opposing the establishment of an additional organization within the IRS to review proposed deficiencies.

It was a distinct pleasure for me to appear before your subcommittee, and I sincerely hope that I was some assistance to you in pursuing your goal of tax simplification.

Sincerely,



W. T. Copping
Regional Commissioner

Enclosures (2)

Enclosure 1

FREQUENT TAX LAW PROBLEMS AREASDefinition of Tax Home for Taxpayers Whose Jobs Require Long Periods of Travel

The location of a taxpayer's "home" is extremely important in determining allowable travel expense deductions. Meals and lodging are deductible as traveling expenses only where the taxpayer is traveling "away from home." The determination of a taxpayer's home requires an analysis of all relevant facts and circumstances. For most taxpayers, this problem of locating the tax home is not acute; however, for taxpayers who have changed job assignments, itinerant workers, or independent contractors, it can create substantial difficulties. The tax home for these taxpayers--that is, where the taxpayer has no obvious principal place of business--has been the subject of much litigation since the various courts do not always agree as to when a taxpayer is considered away from home under these circumstances. Due to this conflict in interpreting the law, taxpayers become confused and cannot always be sure of their tax status. Although the Service has published clarifying rulings in this area (Rev. Rul. 71-247 and Rev. Rul. 73-529), you may wish to consider whether it is possible to more clearly define "tax home" for this group of taxpayers.

Recordkeeping Requirements Small Items

Essentially, Internal Revenue Code Section 274 provides that no deduction is to be allowed for expenditures for travel, entertainment, or gifts unless taxpayers substantiate them by adequate records or by sufficient corroborating evidence. A problem arises when the taxpayer fails to keep adequate records. For example, an independent truckdriver who spends several weeks away from home may be able to substantiate travel to several different cities on specific dates through manifests, bills of lading, or other indirectly related evidence, but fails to keep adequate records regarding lodging and meal expense. While a truckdriver may sleep in a truck every night, some cost for meals presumably had to be incurred. Since the truckdriver is able to establish the elements of time, place and business purposes of the trip by adequate records, the truckdriver believes he should be entitled to some deduction for the meals. A possible solution would be the allowance of a flat rate per day for the cost of meals. This allowance should be a reasonable amount and should be allowed only where a traveler was able to establish the elements of time, place, and business purpose of the trip by adequate records.

Community Income--Effect on Separated or Divorced Taxpayers

While not related to a particular Internal Revenue Code Section, the tax law recognizes the principle of community income in community property states where community income generally is attributed equally

to each spouse. Currently, eight states have community property laws. Numerous portions of the Internal Revenue Code touch on community property provisions resulting in numerous complexities. In general, the halving of income is required during periods when husband and wife are separated and also required for individuals during the year of divorce (up until the time of final divorce). This creates a significant problem for many low income taxpayers. For example, a wife can be required to include on her return half of the husband's income even though she received no benefit from the income. In many cases, it is difficult for the wife to obtain necessary information from her husband to file a return. A partial solution to this problem would be for the tax law to recognize a deviation from the principle of community property income in the case of divorced or separated taxpayers and allow each to file on their separate incomes. In this manner, a wife who has been separated from her husband for the entire year would not be required to include in her separate income half of the income earned by her husband, especially in situations where she did not receive any benefit from this income. The innocent spouse provision of IRS 6013(e) is applicable only in situations where joint returns are filed and does not provide relief in this situation.

Individual Retirement Accounts (IRC 408)

A possible inequity in this law is that no provisions exist for taxpayers who establish IRA accounts in error. For example, a taxpayer who contributes to an IRA for 1975 and 1976 and claims credit on returns for those years, may have the credit disallowed in 1977. In this instance, the taxpayer would be assessed 6 percent Excess Contributions Tax; and, when contributions are withdrawn, an additional 10 percent Premature Distribution Tax would be assessed. Too, the taxpayer would be required to include contributions withdrawn as income even though tax was paid on these amounts in 1975 and 1976. I am informed that the Office of Tax Policy of the Treasury Department now has this issue under study.

Finally, taxpayers do not understand the spousal arrangement--that equal amounts must be contributed for each spouse.

Eliminate Social Security Payments and Aid to Families with Dependent Children from the Computation of Support

Under current law, taxpayers are required to consider amounts received from social security and aid to dependent children in computing total support for their children. This can cause unusual hardships in some

cases. For example, a widow who is required to work in order to help support her minor children may not be allowed to claim them as dependents because social security received by the children may be over half of their total support. Elimination of this requirement would certainly benefit needy taxpayers.

Casualty Losses (IRC 165)

Section 165 as it pertains to deductibility of casualty losses of an individual's personal property is quite troublesome for many taxpayers. The problem arises in determining the amount of the allowable deduction. The amount of the loss is the lesser of the adjusted basis or the fair market value (FMV) of the property before the casualty reduced by the FMV after the casualty. This amount is then reduced by any insurance proceeds and the \$100 limitation.

The difficult part is ascertaining the FMV of the property before the casualty. This is most difficult with items such as furniture, clothing, jewelry, and other household type goods. No accurate and easy method is available for establishing FMV for these items.

An alternative would be to provide by statute that the cost of repair or replacement is the measure of the casualty with an exception where property is nonreparable or nonreplaceable. Under such an approach, however, some consideration should be given to any depreciation claimed on the property lost or damaged by the casualty.

Earned Income Credit (IRC 43(a))

Generally, taxpayers do not understand what qualifies for earned income credit. They do not realize they must have earned income in order to be eligible for earned income credit. A significant number of taxpayers enter an amount for wages but do not include a Form W-2 and claim withholding. However, they will claim earned income credit. Many claim \$400 credit rather than compute the actual credit.

Presently, taxpayers who qualify for the EIC are required to make their own computations except in those cases where IRS computes the tax. This computation is difficult for most taxpayers to make. The EIC is 10 percent for the first \$4,000 of earned income or a maximum amount of \$400. However, the maximum credit must be reduced by 10 percent of the amount by which adjusted gross income or earned income, whichever is larger, exceeds \$4,000. One possible solution to the complexity of this computation would be to incorporate the EIC into a table. A taxpayer could then be referred to the table for selection of the allowable EIC for his/her income level. I am informed that the

Oversight Subcommittee of the House Ways and Means Committee has developed a staff proposal for amendments to the EIC which would permit such an approach on our forms, which has received favorable comment from the Treasury Department and our National Office.

Who Must File?

One area of the tax law which is a source of unnecessary complexity is the basic question, who must file? Under current law, the amount of gross income one must earn before required to file is different depending on the filing status of the taxpayer for the obvious reason that the possibility of liability is dependent on different exemptions and deductions. Treated differently are single, married, over or under 65, a surviving spouse, persons with uncollected social security tax on tips, or self-employed persons. One alternative is a single figure which requires the filing of a return if a taxpayer received income over that amount even though some would file with no liability. Of course, any such proposal would require some taxpayers not now required to file a return to do so.

Substantiation of Support for Dependents (IRC 152)

In order to claim an exemption for a dependent, a taxpayer must prove the total amount expended for an individual and that he/she provides more than one-half that amount. Total support includes expenditures used for providing food, shelter, clothing, education, medical and dental care, recreation, transportation, and similar necessities. In determining total support, consideration must be given to expenditures used for these items by the dependent as well as by others. For example, a situation may exist where a retired parent lives with his/her son or daughter. The parent has a small amount of taxable income and receives social security benefits. Funds received by the parent are used for various support items. In addition, the taxpayer contributes a substantial amount of the support of the parent. Under these circumstances, the taxpayer must prove total support as well as whether or not he/she contributed over half of the support. This computation is one of the most troublesome areas of the tax law.

A possible solution would be to allow an exemption where a taxpayer can establish that he/she contributed a certain dollar amount to the support of a parent. This amount could be based on national averages for support of individuals by age groups. The exemption would be allowed only when no other taxpayer claimed the same dependent.

Enclosure 2

SHOULD THE IRS HAVE A SEPARATE
ORGANIZATION TO REVIEW AUDIT ASSESSMENTS?

You asked for my recommendations as to whether or not the Internal Revenue Service should have a separate organization to review assessments proposed by audit examiners to determine their validity and to provide some comfort to those who are fearful of the results of a confrontation with the IRS.

I realize that many taxpayers apparently agree with adjustments proposed by our examiners even though they do not understand the reasons for the adjustment or even disagree that they are legitimate. In a recent study by the General Accounting Office, GGD-76-54, less than one-half of the taxpayers sampled indicated that they understood the need for the change. There was also an indication in this study that information supplied to taxpayers concerning their appeal rights was inadequate.

Since the GAO study (which covered 1975 returns), the IRS has made strong efforts to ensure better communications with taxpayers. In our formal instructions to examiners for concluding examinations, IRM 4254.1 states:

"Concluding the Examination

"(1) At the close of the examination, if the taxpayer is present, the tax auditor will explain the proposed adjustments to tax liability and solicit an agreement.

"(a) Whether the case is agreed or unagreed, the tax auditor will inquire at this point whether the taxpayer has any further questions regarding appeal rights. If so, the tax auditor will explain the levels of appeal, including the group manager.

"(b) Local procedures will dictate when reports will be prepared and given to taxpayers.

"(2) As required by IRM 4244.3 in all agreed cases the tax auditor will solicit payment of the tax due including accrued interest and any applicable penalty."

Additionally, letters notifying taxpayers of an audit now clearly state appeal rights in a "plain language" manner. The availability of a group manager is stressed, both in the letters and in interviews. When an audit has been concluded, the letter transmitting the audit report and requesting agreement again stresses appeal rights, including the enclosure of Publication 556, Audit of Return, Appeal Rights, and Claims for Refunds. This publication is printed in both English and Spanish. In

all cases, the name and telephone number of our employee handling the case is included. Taxpayers may call (this is also specifically indicated in the letter) rather than come to the office, including a telephone discussion with an independent conferee. Appeals of amounts in dispute of less than \$2,500 are handled informally and do not require written petitions. I have attached a sample of these letters along with a copy of both the English and Spanish version of Publication 556.

I feel sure that in the past some distrust of the IRS appeals system was caused by the first appeal level, the district conference, being under the management control of the district director. Many taxpayers simply did not believe that the same organization which assessed an additional tax could objectively hear an appeal. The new appeals organization proposed by the Commissioner in the April 3, 1978, Federal Register is designed to deal effectively with this taxpayer concern. Implementation of the proposal will emphasize the separation and independence of the appeals function from the examination function. All appeals will be placed under the jurisdiction of the Regional Director of Appeals. This official, who reports directly to the Regional Commissioner, is completely independent of the district directors.

However, while the direction and control of the appeals function will be independent, the geographic distribution of appeals officers will remain unchanged. Employees of the Regional Director of Appeals will continue to hold conferences at all locations where either district Audit or regional Appellate conferences are currently held. Also, the simplified rules for protesting tax determinations in district conferences will continue to be used.

Nevertheless, and in spite of these efforts, the problem does continue. However, a lack of understanding or agreement by the taxpayer does not mean that the actions of the Revenue Service are wrong. The same GAO Report which I referred to earlier closely examined this question. Their conclusions were:

"Because not all audit cases are reviewed either by the group manager or by the review staffs, we can assume that some audit errors go undetected. However, undetected errors are not a serious problem--only 2.6 percent of the cases reviewed in the three districts for which statistics were available resulted in tax changes.

"Ideally, every taxpayer should pay his correct tax, no more and no less. Under IRS' current review procedures, however, some taxpayers are more likely to have audit errors detected and corrected. We recognize, however, that (1) it is impossible for a group manager, especially an office audit

group manager, to thoroughly review every completed audit case because of the volume of cases and the other demands of his job and (2) the review staff's primary function is to provide a statistically valid measure of the general quality of district audits, thereby alerting management to problem areas. IRS could review every audit case if it increased the number of group managers and/or reviewers or if it reduced the number of audits, thereby making the review caseload more manageable. However, neither alternative seems practical.

"Any additional revenue that may accrue to the Government by correcting audit errors would be offset, at least partially, by the additional cost of detecting them. Also, because all unagreed cases are eventually reviewed either by the group manager or the review staff or during consideration of the taxpayer's appeal, the possibility of an undetected audit error arises primarily in agreed cases. We believe that the problem of erroneous audit findings in agreed cases could be alleviated if, as discussed previously, taxpayers are given adequate explanation for the changes to their returns and are properly advised of their appeal rights, including the right to request a meeting with the examiner's supervisor which result in a review of the examiner's findings. A taxpayer could then better satisfy himself on the correctness of the examiner's findings before agreeing to those findings rather than relying on a postaudit review."

My own experience, and GAO's independent study, lead me to believe that establishment of a separate organization to, in effect, revalidate the action of examiners would merely add more civil servants and government where private enterprise would be more efficient. The Commissioner, in commenting to GAO on this portion of their report stated:

"...However, we do not believe it is possible to eliminate this problem completely without a substantial simplification of the tax law. The Federal income tax law is complex and many small income taxpayers lack both the knowledge of taxes and the personal confidence to challenge the examiner's findings."

In summary, the current proposal by the Commissioner to simplify the appeals system, separating it from the office making a tax determination; the simplification of the tax law for the average taxpayer; and increased knowledge by taxpayers of the cost and availability of professional advice of lawyers and CPAs may be the most practical approaches to this problem. I'm sure you are aware that the latter is being accomplished gradually as more and more states are changing prohibitions against reasonable advertising by the professions.

ATTACHMENTS TO LETTER

1. Letter 915(DO) -- letter transmitting audit report of adjustments
2. Letter 890(DO) -- letter to taxpayer announcing audit when appointment has not been scheduled
3. Letter 889(DO) -- letter to taxpayer announcing audit when appointment has been scheduled
4. Publication 556 -- Audit of Returns, Appeal Rights, and Claims for Refund
5. Publication 556S -- above publication in Spanish

Internal Revenue Service

Department of the Treasury

Date: LETTER TRANSMITTING AUDIT REPORT
OF ADJUSTMENTS

Tax Year Ended:

Person to Contact:

Contact Telephone Number:

Contact Address:

Dear Taxpayer:

Enclosed are two copies of our report explaining why we believe adjustments should be made in the amount of your tax. Please look this report over and let us know whether you agree with our findings.

If you accept our findings, please sign the consent to assessment and collection portion at the bottom of the report and mail one copy to this office within 15 days from the date of this letter. If additional tax is due, you may send your payment in with the copy of the report. (See the enclosed instructions for payment details.)

If you do not accept our findings, you have 15 days from the date of this letter to do one of the following:

1. Mail us any additional evidence or information you would like us to consider.
2. Request a discussion of our findings with one of our examiners. At that time you may submit any additional evidence or information you would like us to consider. If you plan to come in for a discussion, please phone or write us in advance so that we can arrange a convenient time and place.
3. Request a conference with a member of our conference staff. The conferee will be someone who has not examined your return. However, if the examination was conducted entirely by correspondence, we would appreciate your first discussing our findings with one of our examiners.

The enclosed instructions fully explain your appeal rights.

If we don't hear from you within 30 days, we will have to process your case on the basis of the adjustments shown in the examination report. If you write us about your case, please use the contact address shown above and refer to the symbols in

District Director, Austin District

Letter 915(00)
Form L-87 (Rev. 1-74)

the upper right corner of the enclosed report. A return envelope is enclosed for your convenience.

If you wish to call us, please contact the person at the number shown above.

Sincerely yours,


Richard J. Staken, Jr.
District Director

Enclosures:
Examination Report (2)
Instructions
Envelope

Internal Revenue Service

Department of the Treasury

Date: LETTER TO TAXPAYER ANNOUNCING AUDIT
WHEN APPOINTMENT HAS NOT BEEN
SCHEDULED.

Tax Year(s):**Examining Office Address:****Room Number:****Contact Telephone Number:****Appointment Clerk:**

We are examining your Federal income tax return for the above year(s) and find we need additional information to verify your correct tax.

About the records needed to examine your return--

We would therefore appreciate your bringing to our office the records you used as a basis for the items checked at the end of this letter so we can discuss them with you. Please call us at the above telephone number within 10 days to set up an appointment convenient for you. If a joint return was filed, either you or your spouse may keep the appointment, or you may have someone represent you or accompany you. An attorney, a certified public accountant, an individual enrolled to practice before the Internal Revenue Service, or the person who prepared the return and signed it as the preparer, may represent or accompany you.

The enclosed Information Guides will help you decide what records to bring. It will save you time if you keep together the records related to each item. Please bring this letter also.

The law required taxpayers to substantiate all items affecting their tax liabilities when requested to do so. If you do not keep this appointment or do not arrange another, we will have to proceed on the basis of the information we have.

About the examination and your appeal rights--

We realize some taxpayers may be concerned about an examination of their tax returns. We hope we can relieve any concern you may have by briefly explaining why we examine, what our procedures are, and what your appeal rights are if you do not agree with the results.

We examine returns to verify the correctness of income, exemptions, credit, and deductions. We find that the vast majority of taxpayers are honest and have nothing to fear from an examination of their tax returns. An examination of such a taxpayer's return does not suggest a suspicion of dishonesty or criminal liability. In many cases, the taxpayer's return is either closed without change in reported tax liability or the taxpayer receives a refund. However, if taxpayers do not substantiate items when requested, we have to act on available information that may be incomplete. That is why your cooperation is so important.

District Director, Austin District

Letter 890(DO) (1-77)

We will go over your return and records and then explain any proposals to change your tax liability. We want you to understand fully any recommended increase or decrease in your tax, so please don't hesitate to ask questions about anything not clear to you.

If changes are recommended and you agree with them, we will ask you to sign an agreement form. By signing you will indicate your agreement to the amount shown on the form as additional tax you owe, or as a refund due you, and simplify closing your case.

Most people agree with our proposals, and we believe this is because they find our examiners to be fair. But you don't have to agree. If you choose, we can easily arrange for you to have your case given further consideration. You need only tell the examiner you want to discuss the issue informally with a supervisor, and we will do our best to arrange a meeting immediately. If this discussion does not result in agreement, you may take your case to a conferee for further consideration.

In addition to these district office appeal rights, you may request the Service's Appellate Division, which is separate from the district office, to consider your case. We will be glad to explain this procedure and also how to appeal outside the Service to the courts.

We will also be happy to furnish you a copy of our Publication 556, Audit of Returns, Appeal Rights, and Claims for Refund, which explains in detail our procedures covering examination of tax returns and appeal rights. You can get a copy of this publication by writing us for it or by asking for it when you come to our office.

About repetitive examinations--

We try to avoid unnecessary repetitive examinations of the same items, but this occasionally happens. Therefore, if your tax return was examined in either of the 2 previous years for the same items checked on this letter and the examination resulted in no change to your tax liability, please notify the appointment clerk as soon as possible. The examination of your return will then be suspended pending a review of our files to determine whether it should proceed.

About your appointment--

Your appointment is the next step unless, of course, you notify us of a repetitive examination as outlined in the preceding paragraph. Please call the appointment clerk to arrange a convenient time for this examination.

If you have any questions, please contact the appointment clerk. Thank you for your cooperation.

Sincerely yours,


Robert M. McKeever
District Director

Enclosures:
Information Guides

Letter 890(DO) (1-77)

Please bring the records to support the following items reported on your tax return and its schedules:

- | | | |
|--|--|--|
| <input type="checkbox"/> Alimony Payments | <input type="checkbox"/> Contributions | <input type="checkbox"/> Moving Expenses |
| <input type="checkbox"/> Automobile Expenses | <input type="checkbox"/> Education Expenses | <input type="checkbox"/> Rental Income and Expenses |
| <input type="checkbox"/> Bad Debts | <input type="checkbox"/> Employee Business Expenses | <input type="checkbox"/> Sale or Exchange of Residence |
| <input type="checkbox"/> Capital Gains and Losses | <input type="checkbox"/> Exemptions | <input type="checkbox"/> Sick Pay or Disability Income Exclusion |
| <input type="checkbox"/> Casualty Losses | <input type="checkbox"/> Interest Expense | |
| <input type="checkbox"/> Child and Dependent Care Expenses | <input type="checkbox"/> Medical and Dental Expenses | <input type="checkbox"/> Taxes |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Uniforms, Equipment, and Tools |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Please bring evidence such as accounting ledgers and journals, bank statements, and canceled checks to support the following items shown on Schedule C:

- | | | |
|--|---|---|
| <input type="checkbox"/> All Business Expenses | <input type="checkbox"/> Insurance | <input type="checkbox"/> Taxes |
| <input type="checkbox"/> Bad Debts | <input type="checkbox"/> Interest | <input type="checkbox"/> Travel and Entertainment |
| <input type="checkbox"/> Cost of Goods Sold | <input type="checkbox"/> Rents | <input type="checkbox"/> |
| <input type="checkbox"/> Depreciation | <input type="checkbox"/> Repairs | <input type="checkbox"/> |
| <input type="checkbox"/> Gross Receipts | <input type="checkbox"/> Salaries and Wages | <input type="checkbox"/> |

Please bring evidence such as accounting ledgers and journals, bank statements, and canceled checks to support the following items shown on Schedule F:

- | | | |
|--|--|--|
| <input type="checkbox"/> All Farm Expenses | <input type="checkbox"/> Insurance | <input type="checkbox"/> Repairs and Maintenance |
| <input type="checkbox"/> Depreciation | <input type="checkbox"/> Inventories | <input type="checkbox"/> Supplies Purchased |
| <input type="checkbox"/> Feed and Seed Purchased | <input type="checkbox"/> Labor Hired | <input type="checkbox"/> Taxes |
| <input type="checkbox"/> Fertilizers, Lime | <input type="checkbox"/> Machine Hire | <input type="checkbox"/> |
| <input type="checkbox"/> Gross Receipts | <input type="checkbox"/> Other Farm Income | <input type="checkbox"/> |

Internal Revenue Service

Department of the Treasury

Date:

LETTER TO TAXPAYER ANNOUNCING AUDIT
WHEN APPOINTMENT HAS BEEN SCHEDULED.

Tax Year(s):

Day and Date of Appointment:

Time:

Place of Appointment:

Room Number:

Contact Telephone Number:

Appointment Clerk:

We are examining your Federal income tax return for the above year(s) and find we need additional information to verify your correct tax. We have, therefore, scheduled the above appointment for you.

If you filed a joint return, either you or your spouse may keep the appointment or you may have an attorney, a certified public accountant, an individual enrolled to practice before the Internal Revenue Service, or a qualified unenrolled individual represent or accompany you. If you are not present, however, your representative must have written authorization to represent you. Form 2848-D, Authorization and Declaration, may be used for this purpose and if your representative does not have copies of this form, they may be obtained from one of our offices. Also, any other individual, even though not qualified to represent you, may accompany you as a witness and assist in establishing the facts in your case.

About the records needed to examine your return—

We would appreciate your bringing to our office the records you used as a basis for the items checked at the end of this letter so we can discuss them with you.

The enclosed Information Guides will help you decide what records to bring. It will save you time if you keep together the records related to each item. Please bring this letter also.

The law requires taxpayers to substantiate all items affecting their tax liabilities when requested to do so. If you do not keep this appointment or do not arrange another, we will have to proceed on the basis of available return information.

About the examination and your appeal rights—

We realize some taxpayers may be concerned about an examination of their tax returns. We hope we can relieve any concern you may have by briefly explaining why we examine, what our procedures are, and what your appeal rights are if you do not agree with the results.

District Director, Austin District

Letter 889(DO) (Rev. 9-77)

We examine returns to verify the correctness of income, exemptions, credits, and deductions. We find that the vast majority of taxpayers are honest and have nothing to fear from an examination of their tax returns. An examination of such a taxpayer's return does not suggest a suspicion of dishonesty or criminal liability. In many cases, no change is made to the tax liability reported or the taxpayer receives a refund. However, if taxpayers do not substantiate items when requested, we have to act on available return information that may be incomplete. That is why your cooperation is so important.

We will go over your return and records and then explain any proposals to change your tax liability. We want you to understand fully any recommended increase or decrease in your tax, so please don't hesitate to ask questions about anything not clear to you.

If changes are recommended and you agree with them, we will ask you to sign an agreement form. By signing you will indicate your agreement to the amount shown on the form as additional tax you owe, or as a refund due you, and simplify closing your case.

Most people agree with our proposals, and we believe this is because they find our examiners to be fair. But you don't have to agree. If you choose, we can easily arrange for you to have your case given further consideration. You need only tell the examiner you want to discuss the issue informally with a supervisor, and we will do our best to arrange a meeting immediately. If this discussion does not result in agreement, you may take your case to a conferee for further consideration.

In addition to these district office appeal rights, you may request the Service's Appellate Division, which is separate from the district office, to consider your case. We will be glad to explain this procedure and also how to appeal outside the Service to the courts.

We will also be happy to furnish you a copy of our Publication 556, Audit of Returns, Appeal Rights, and Claims for Refund, which explains in detail our procedures covering examinations of tax returns and appeal rights. You can get a copy of this publication by writing us for it or by asking for it when you come to our office.

About repetitive examinations--

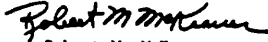
We try to avoid unnecessary repetitive examinations of the same items, but this occasionally happens. Therefore, if your tax return was examined in either of the two previous years for the same items checked on this letter and the examination resulted in no change to your tax liability, please notify the appointment clerk as soon as possible. The examination of your return will then be suspended pending a review of our files to determine whether it should proceed.

About your appointment—

Your appointment is the next step unless, of course, you notify us of a repetitive examination as outlined in the preceding paragraph. If the date or time of the appointment is inconvenient, please call the appointment clerk to arrange a more suitable time. We will consider the appointment confirmed if we do not hear from you at least 7 days before the scheduled date.

If you have any questions, please contact the appointment clerk whose name and telephone number are shown in the heading of this letter. Thank you for your cooperation.

Sincerely yours,



Robert M. McKeever
District Director

Enclosures:
Information Guides
Publication 876, Privacy Act Notice

Please bring the records to support the following items reported on your tax return and its schedules:

- | | | |
|--|--|---|
| <input type="checkbox"/> Alimony Payments | <input type="checkbox"/> Contributions | <input type="checkbox"/> Moving Expenses |
| <input type="checkbox"/> Automobile Expenses | <input type="checkbox"/> Education Expenses | <input type="checkbox"/> Rental Income and Expenses |
| <input type="checkbox"/> Bad Debts | <input type="checkbox"/> Employee Business Expenses | <input type="checkbox"/> Sale or Exchange of Residence |
| <input type="checkbox"/> Capital Gains and Losses | <input type="checkbox"/> Exemptions | <input type="checkbox"/> Sick Pay Exclusion |
| <input type="checkbox"/> Casualty Losses | <input type="checkbox"/> Interest Expense | <input type="checkbox"/> Taxes |
| <input type="checkbox"/> Child and Dependent Care Expenses | <input type="checkbox"/> Medical and Dental Expenses | <input type="checkbox"/> Uniforms, Equipment, and Tools |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | | |

Please bring evidence such as accounting ledgers and journals, bank statements, and canceled checks to support the following items shown on Schedule C:

- | | | |
|--|---|---|
| <input type="checkbox"/> All Business Expenses | <input type="checkbox"/> Insurance | <input type="checkbox"/> Taxes |
| <input type="checkbox"/> Bad Debts | <input type="checkbox"/> Interest | <input type="checkbox"/> Travel and Entertainment |
| <input type="checkbox"/> Cost of Goods Sold | <input type="checkbox"/> Rents | <input type="checkbox"/> |
| <input type="checkbox"/> Depreciation | <input type="checkbox"/> Repairs | <input type="checkbox"/> |
| <input type="checkbox"/> Gross Receipts | <input type="checkbox"/> Salaries and Wages | <input type="checkbox"/> |

Please bring evidence such as accounting ledgers and journals, bank statements, and canceled checks to support the following items shown on Schedule F:

- | | | |
|--|--|--|
| <input type="checkbox"/> All Farm Expenses | <input type="checkbox"/> Insurance | <input type="checkbox"/> Repairs and Maintenance |
| <input type="checkbox"/> Depreciation | <input type="checkbox"/> Inventories | <input type="checkbox"/> Supplies Purchased |
| <input type="checkbox"/> Feed and Seed Purchased | <input type="checkbox"/> Labor Hired | <input type="checkbox"/> Taxes |
| <input type="checkbox"/> Fertilizers, Lime | <input type="checkbox"/> Machine Hire | <input type="checkbox"/> |
| <input type="checkbox"/> Gross Receipts | <input type="checkbox"/> Other Farm Income | <input type="checkbox"/> |

NOTE

THIS MICROFICHE MEETS THE QUALITY REQUIREMENTS OF THE AMERICAN NATIONAL STANDARD FOR MICROFICHE OF DOCUMENTS (ANSI PH5.9-1975).

PAGES 28 thru 34 ARE OF VERY POOR ORIGINAL QUALITY, HOWEVER, THEY ARE THE BEST COPY AVAILABLE TO US AT THE TIME OF FILMING.

Audit of Returns, Appeal Rights, and Claims for Refund

Department
of the
Treasury
Internal
Revenue
Service

Publication 556

(Revised October 1977)

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AUDIT OF RETURNS

WHY RETURNS ARE SELECTED FOR EXAMINATION

The usual reason for selecting a tax return for examination is to verify the correctness of income, exemptions, or deductions that have been reported on the return. Returns are primarily selected for examination by use of a computer program known as the Discriminant Function System (DIF). The DIF process is a mathematically based system which involves the assignment of weights to the entries on returns and the production by computer of a score for each return. The higher the score, the greater the probability of error in a return. Returns identified by DIF are then screened manually and those confirmed as having the highest error potential are selected for examination.

Returns may also be selected as part of the random sample under the Taxpayer Compliance Measurement Program (TCMP), which is the Service's long-range research program designed to measure and evaluate taxpayer compliance characteristics. Information obtained from TCMP is used to update and improve DIF.

The remaining returns are selected by other established selection methods, such as screening claims for refund of previously paid taxes and matching information documents (Forms W-2, 1099, and 1067).

The vast majority of taxpayers are honest and have nothing to fear from an examination of their tax returns. An examination of such a taxpayer's return does not suggest a suspicion of dishonesty or criminal liability. It may not even result in more tax. Many cases are closed without change in reported tax liability and, in many others, the taxpayer receives a refund.

CONFIDENTIALITY OF TAX MATTERS

You have the right to have your tax case kept confidential. The IRS has a duty under the law to protect the confidentiality of your tax information. However, if a lien or a lawsuit is filed certain aspects of your tax case will become public knowledge.

IF YOUR RETURN IS EXAMINED

The examination may be conducted by correspondence, or it may take place in your home or place of business, an Internal Revenue Service office, or the office of your attorney or accountant. The place and method of examination is determined by the Internal Revenue Service, but we try to select the place and method that is most appropriate under the circumstances, taking into

account the complexity of your return. If the method is not convenient for you, we will attempt to work out something more suitable.

Whatever method of examination is used, you may act on your own behalf or you may have someone represent you or accompany you. An attorney, a certified public accountant, an individual enrolled to practice before the Internal Revenue Service, or the person who prepared the return and signed it as the preparer, may represent or accompany you. If you prefer, you do not have to be present at a routine examination if you have authorized one of these persons to represent you. Authorization may be made on Form 2848-D, *Authorization and Declaration*, which is available at any Internal Revenue Service office, or by means of any other properly written authorization.

If you filed a joint return, either you or your spouse (or both) may meet with us.

TRANSFERS TO ANOTHER DISTRICT

As a general rule, the examination of a tax return is made in the Internal Revenue Service District where the taxpayer files. However, in any case where the examination of your return can be completed more quickly and conveniently in another district, you may request that the case be transferred to that district. Transfers are usually based on circumstances such as:

- 1) Your place of residence is changed before or during the examination; or
- 2) Your books and records are kept in another district.

THE EXAMINATION: IN GENERAL

The examination normally begins when we notify you by mail that your return has been selected for examination. You will also be notified of the method of examination and the records you will need to assemble in order to clarify or prove items reported on your return. By assembling your records beforehand, you may be able to clear up questionable items or arrive at the correct tax with the least trouble.

We try to avoid unnecessary repetitive examinations of the same items, but this occasionally happens. Therefore, if your tax return was examined in either of the two previous years for the same items and the audit resulted in no change to your tax liability, please contact the person whose name and telephone number are shown in the heading of the letter you received as soon as possible. The examination of your return will then be suspended pending a review of our files to deter-

mine whether it should proceed. However, if your return was selected for examination as part of the random sample for research studies, this procedure for exemption from examination will not apply and your return must be examined.

Upon completion of the examination, our examiner will explain to you (or your authorized representative) any proposed change to your tax liability. The examiner will also explain the reasons for the change. It is important that you understand any proposed change, and please don't hesitate to ask questions about anything that is not clear to you. Most individual examinations are agreed to and closed at this level, but you don't have to agree and you may appeal any proposed change.

IF YOU AGREE

If you agree with the findings of the examiner, you will be asked to sign an agreement form. By

signing, you will indicate your agreement to the amount shown on the form; and if you owe additional tax, you will stop the applicable interest charge 30 days after filing the form. No further interest (or penalties) will be charged unless you fail to pay the amount you owe within ten days after the date of the notice advising you of such amount. However, if you pay the tax when you sign the agreement form, interest stops immediately.

If you wish to pay, make your check or money order payable to the Internal Revenue Service. Include interest on the additional tax (but not on penalties) at the applicable rate from the due date of the return to the date of payment. If the examination results in a refund, the Internal Revenue Service can refund your money more promptly if you sign the agreement form. You will receive interest at the applicable rate on the amount of the refund.

APPEAL RIGHTS

IF YOU DON'T AGREE

If you don't agree with the changes proposed by the examiner, and if the examination was made in an Internal Revenue Service office, you may request an immediate meeting with a supervisor to explain your position. If agreement is reached, your case will be closed. If agreement is not reached at this meeting, or if the unagreed examination was made outside of an Internal Revenue Service office, we will send you (1) a transmittal letter notifying you of your right to appeal the proposed adjustments within 30 days, (2) a copy of the examination report explaining the proposed adjustments, (3) an agreement or waiver form, and (4) a copy of Publication 5, *Appeal Rights and Preparation of Protests for Unagreed Cases*.

If after receiving the examination report you decide to agree with the examiner's findings, you should sign the agreement or waiver form. You may pay any additional amount you owe without waiting for a bill. Make your check or money order payable to the Internal Revenue Service. Include interest on the additional tax (but not on penalties) at the applicable rate from the due date of the return to the date of payment. Please do not send cash through the mail.

If after receiving the examination report you decide not to agree with the examiner's findings, we urge you to first appeal your case to higher levels within the Service before you go to court.

Because people sometimes disagree on tax matters, the Service maintains a system of ap-

peals. Most differences can be settled in these appeals without court trials.

If you do not want to appeal your case in the Service, however, you can take it directly to court.

The following general rules tell you how to appeal your case.

APPEAL WITHIN THE SERVICE

We have two levels of appeal within the Service: The District Conference Staff and the Appellate Division.

Your first level of appeal from the findings of the examiner is the District Conference Staff. If you want a District Conference, ask for it in accordance with our transmittal letter to you. We will then arrange a meeting at a convenient time and place, and a conferee from the Staff will discuss the disputed issues fully with you or your representative. You or your representative should be prepared to discuss all disputed issues and to present your views at this meeting, in order to save the time and expense of additional conferences. Most differences are resolved at this level.

If you and the conferee don't reach agreement at your District Conference, however, you may appeal your case to the second level—the Appellate Division in the Regional Commissioner's office. Or, if you do not want a District Conference, you may appeal directly to the Appellate Division.

If you want an Appellate Division hearing, address your request to your District Director in ac-

accordance with our transmittal letter to you. Your District Director will forward your request to the Appellate Division, which will arrange for a hearing at a convenient time and place.

If agreement is not reached at your District Conference or your Appellate Division hearing, you may, at any stage of these procedures, take your case to court. See *Appeals To The Courts*, below.

WRITTEN PROTESTS

So that your case may get prompt and full consideration by the District or Appellate conference, you need to file a written protest with the District Director. You don't have to file a written protest, however, if you are appealing to the District Conference Staff, and

- 1) The proposed increase or decrease in tax, or claimed refund, does not exceed \$2,500 for any of the tax periods involved; or
- 2) Your examination was conducted by correspondence or by an interview at our office.

A written protest is required for an Appellate Division hearing in all cases except those in which (1) the amount involved does not exceed the \$2,500 limit mentioned previously and (2) you appealed to the District Conference Staff first. If you filed a protest for your District Conference, you don't have to file another for the Appellate Division hearing.

If a written protest is required, it should be submitted in duplicate within the 30-day period granted in the letter transmitting the report of examination and should contain:

- 1) A statement that you want to appeal the findings of the examiner to the District Conference Staff or to the Appellate Division, as the case may be;
- 2) Your name and address;
- 3) The date and symbols from the letter transmitting the proposed adjustments and findings you are protesting;
- 4) The tax periods or years involved;
- 5) An itemized schedule of the adjustments with which you do not agree;
- 6) A statement of facts supporting your position in any contested factual issue; and
- 7) A statement outlining the law or other authority upon which you rely.

The statement of facts under (6) must be declared true under penalties of perjury. This may be done by adding to the protest the following signed declaration:

"Under the penalties of perjury, I declare that I have examined the statement of facts presented

in this protest and in any accompanying schedules and statements and, to the best of my knowledge and belief, they are true, correct, and complete."

If your representative submits the protest for you, he or she may substitute a declaration stating:

- 1) That he or she prepared the protest and accompanying documents; and
- 2) Whether he or she knows personally that the statements of fact contained in the protest and accompanying documents are true and correct.

REPRESENTATION

You may represent yourself at your District Conference or Appellate Division hearing, or you may be represented by an attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service. If your representative attends a conference without you, he or she may receive or inspect confidential information only in accordance with a properly filed power of attorney or a tax information authorization. Form 2848, *Power of Attorney*, or Form 2848-D, *Authorization and Declaration* (or any other properly written power of attorney or authorization) may be used for this purpose. Copies of these forms may be obtained from any Internal Revenue Service office.

You may also bring witnesses to support your position.

APPEALS TO THE COURTS: IN GENERAL

If you and the Service still disagree after your conference or hearing, or if you skipped our appeals system, you may take your case to the United States Tax Court, the United States Court of Claims, or your United States District Court. These courts are independent judicial bodies and have no connection with the Internal Revenue Service.

TAX COURT

If your case involves a disagreement over whether you owe additional income tax, or estate or gift tax, you may go to the United States Tax Court. To do this, ask the Service to issue a formal letter, called a statutory notice of deficiency. You have 90 days from the date this notice is mailed to you to file a petition with the Tax Court (150 days if addressed to you outside the United States).

You must be sure that your petition to the Tax Court is timely filed because if it is not, the pro-

posed liability will be automatically assessed against you. Once the tax is assessed, a notice of tax due (a bill) will be sent to you. You are then required by law to make payment within ten days. If the tax remains unpaid after the ten-day period, the amount due will become subject to immediate collection. You should be aware that once the assessment has been made, collection of the full amount due may proceed notwithstanding your belief that the assessment was excessive. (Publication 588, *The Collection Process*, is available at your local Internal Revenue Service office to explain our collection procedures.)

The Court will schedule your case for trial at a location convenient to you. You may represent yourself before the Tax Court, or you may be represented by anyone admitted to practice before that Court.

If your case involves a dispute of \$1,500 or less for any one taxable year, a simplified alternative procedure is provided by the Tax Court. Upon your request, and with the approval of the Tax Court, your case may be handled under the Small Tax Case procedures. At little cost to you in time or money, you can present your own case to the Tax Court for a binding decision. If your case is

handled under this procedure, the decision of the Tax Court is final and cannot be appealed. You can obtain more information regarding the Small Tax Case procedures and other Tax Court matters from the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217.

DISTRICT COURT AND COURT OF CLAIMS

As explained later, you may file a claim for refund if, after having paid your tax, you believe the tax is erroneous or excessive. If your claim is rejected, you will receive a statutory notice of disallowance of your claim. If we haven't acted on your claim within six months from the date you filed it, you can then file suit for refund. A suit for refund must be filed not later than two years after we have disallowed your claim. You may file your refund suit in your United States District Court or in the United States Court of Claims. Generally, your District Court and the Court of Claims hear tax cases only after you have paid the tax and have filed a claim for refund. You can obtain information about procedures for filing suit in either court by contacting the clerk of your District Court or the Clerk of the Court of Claims, 717 Madison Place, N.W., Washington, D.C. 20005.

CLAIMS FOR REFUND

HOW TO CLAIM A REFUND

Once you have paid your tax you have the right to file a claim for refund if you believe the tax is erroneous or excessive. You may claim a refund by filing Form 1040X, *Amended U.S. Individual Income Tax Return*. You can obtain this form and information about filing it at any Internal Revenue Service office. You should file your claim by mailing it to the Internal Revenue Service Center where the original return was filed. Corporations should use Form 1120X or such other form as is appropriate for the type of refund claimed.

A separate form must be filed for each tax year involved. You should attach to such form a statement supporting your claim, including an explanation of each item of income, deduction, or credit on which you are basing your claim.

TIME FOR FILING A CLAIM FOR REFUND: GENERAL RULE

A claim for refund must be filed within three years from the date the return was filed (returns filed before the due date are considered to have been filed on the due date) or within two years from the date the tax was paid, whichever date is later.

LIMIT ON AMOUNT OF REFUND: GENERAL RULE

If you file your claim within three years of the date your return was filed, the credit or refund may not exceed the portion of the tax paid within a period, immediately preceding the filing of your claim, equal to three years plus any extension of time for filing your return. If you do not file your claim within such three-year period, the credit or refund may not exceed the portion of the tax paid during the two years immediately preceding the filing of your claim. This general rule is subject to the following exception.

EXCEPTION: FOR SPECIAL TYPES OF REFUNDS

If your claim for credit or refund is based on a bad debt, worthless security, net operating loss carryback, capital loss carryback, foreign tax credit, or an investment credit carryback; or if you have entered into an agreement with the Internal Revenue Service extending the period for assessment of tax, you may be entitled to file your claim at a date later than stated under *Time for Filing a Claim for Refund: General Rule* and the

that an amount may not apply in such cases, you should consult your Internal Revenue Service office for further information.

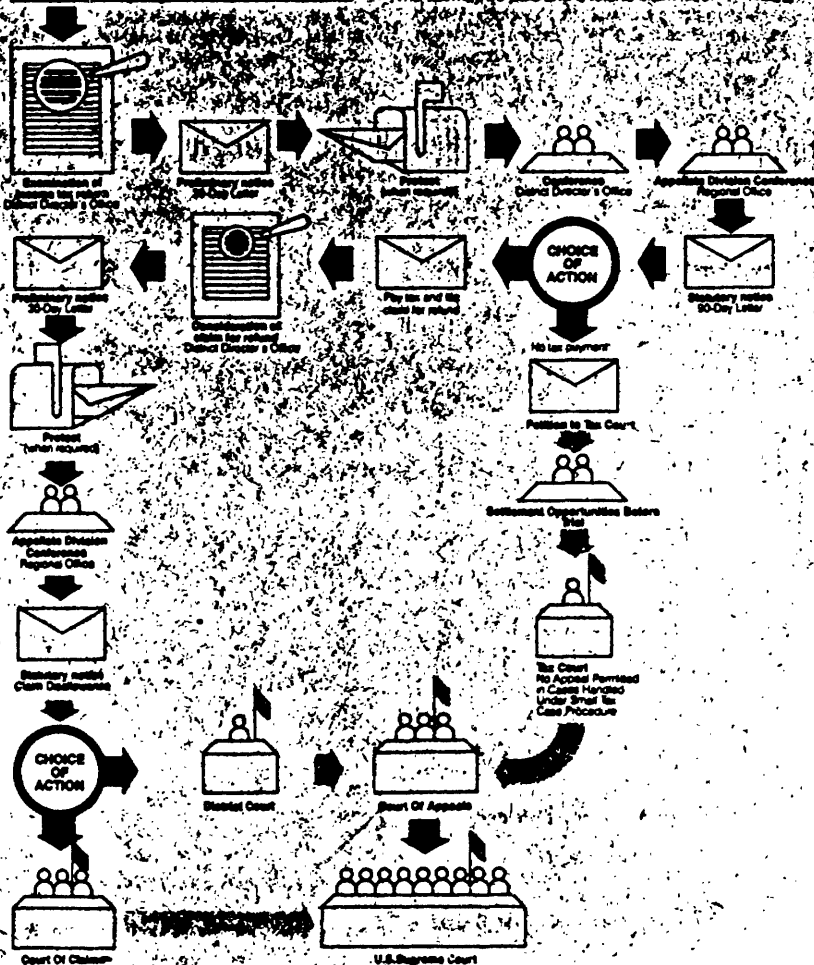
PROCESSING CLAIMS FOR REFUND

Claims are usually processed shortly after they are filed. Your claim may be accepted as filed or may be subject to examination. If a claim is examined, the procedures are the same as in the audit of a tax return. However, if you are filing a claim

for refund based solely on contested income or on estate or gift tax issues considered in previously examined returns and do not wish to appeal within the IRS, you should request in writing that the claim be immediately rejected. A notice of claim disallowance will then be promptly sent to you. Upon receipt of the disallowance you have two years to file a refund suit in the United States District Court having jurisdiction or the United States Court of Claims.

**Income Tax
Appeal
Procedure**
Internal Revenue Service

At any stage of procedure:
Agreement and payment may be arranged.
Request for issuance of a notice of deficiency to allow petition to the Tax Court may be made.
The tax may be paid and a refund claim filed.



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**Revisión de las Declaraciones
de Impuesto, Derecho de
Apelación y Reclamaciones
de Devolución**

Department
of the
Treasury
Internal
Revenue
Service

(Audit of Returns, Appeal Rights,
and Claims for Refund)

Publicación 556S
(Revisada en Octubre de 1977)

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I. REVISIÓN DE LAS DECLARACIONES DE IMPUESTO

A. POR QUÉ SE SELECCIONAN LAS DECLARACIONES PARA LA REVISIÓN

La razón más corriente para seleccionar una declaración de impuesto para examinarla es el propósito de comprobar si el ingreso, exenciones o deducciones que aparecen en ella son correctos. La gran mayoría de las declaraciones son seleccionadas para la revisión a través de un sistema computarizado, llamado el Sistema de Operaciones Discriminantes (DIF). El proceso DIF es un sistema matemático por el cual se fijan valores ponderados para las anotaciones en las declaraciones. Después, una computadora asigna un número de puntos a cada declaración. Mientras más alto sea el número de puntos, mayor será la posibilidad de errores en una declaración. Después, las declaraciones identificadas por DIF son examinadas manualmente y las que tienen la mayor probabilidad de error son seleccionadas para la revisión.

Algunas declaraciones se seleccionan al azar bajo el Programa para Evaluar el Cumplimiento de los Contribuyentes (TCMP). Este programa de investigación de largo alcance fue creado para evaluar las características de cumplimiento de los contribuyentes. La información obtenida a través del TCMP se usa para actualizar y mejorar el DIF.

Las declaraciones restantes son escogidas por otros sistemas de selección, tales como el examen de reclamaciones por la devolución de impuestos pagados anteriormente y el cotejo de las declaraciones con documentos informativos (Formularios W-2, 1099 y 1087).

Una vasta mayoría de contribuyentes es honesta y no tiene que temer a que su declaración sea seleccionada para examen. El examen no significa en manera alguna que se presuma falta de honestidad o sospechas de responsabilidad criminal por su parte. Tampoco el resultado es necesariamente aumento de impuesto. Muchos casos se terminan sin cambiar el adeudo de impuesto declarado y, en muchos otros, el contribuyente recibe devolución de impuesto.

B. LA MATERIA DE IMPUESTO ES CONFIDENCIAL

Usted tiene el derecho de que su caso de impuesto se mantenga en secreto. El Servicio de Impuestos Internos está obligado por la ley a mantener confidencialmente su información sobre impuesto. No obstante, si se establece un

gravamen o un pleito judicial, ciertos aspectos de su caso de impuesto pueden pasar al conocimiento público.

C. SI SE EXAMINA SU DECLARACIÓN

La revisión puede efectuarse por correspondencia, o puede tener lugar en su casa o lugar de negocio, en una oficina del Servicio de Impuestos Internos o en la oficina de su abogado o su contador. El lugar y método para la revisión los determina el Servicio de Impuestos Internos, pero nosotros tratamos de seleccionar los que sean más apropiados de acuerdo con las circunstancias, tomando en consideración la complejidad de su declaración. Si el método no es conveniente para usted, trataremos de usar uno que le sea más adecuado.

Cualquiera que sea el método usado, usted puede actuar por sí mismo o puede traer a alguien para que lo represente o acompañe. Un abogado, un contador público colegiado, o un individuo registrado para actuar ante el Servicio de Impuestos Internos, o la persona que preparó la declaración y la firmó como preparador, puede representarlo o acompañarlo. Usted no tiene que estar presente en el examen rutinario si no lo desea y si usted ha autorizado a alguna de las personas mencionadas para que lo represente. La autorización puede hacerse usando el Formulario 2848D, *Authorization and Declaration (Autorización y Declaración)*, el cual se encuentra disponible en las oficinas del Servicio de Impuestos Internos, o usando cualquier otra autorización propiamente escrita.

Si usted presenta la declaración conjunta, usted, su esposa, o ambos, pueden reunirse con nosotros.

D. TRASLADO A OTRO DISTRITO

Como regla general, la revisión de la declaración de impuesto se hace en el Distrito del Servicio de Impuestos Internos donde el contribuyente presenta su declaración. No obstante, en el caso en que la revisión de su declaración se pueda hacer más rápida y cómodamente en otro distrito, usted puede solicitar que el caso se traslade a ese distrito.

Los traslados se basan usualmente en circunstancias como las siguientes:

1. Usted cambia el lugar de su residencia antes o durante el examen; o
2. Sus libros y datos se llevan en el otro distrito.

E. LA REVISIÓN: EN GENERAL

La revisión comienza normalmente cuando le notificamos a usted por correo que su declaración ha sido elegida para examen. Usted será notificado también del método de examen y de los datos que usted tiene que reunir para aclarar o probar materias informadas en su declaración. Reuniendo los datos de antemano, usted puede estar en disposición de aclarar asuntos dudosos o hallar el impuesto correcto con un mínimo de molestias.

Nosotros tratamos de evitar repetidas revisiones de la misma materia, pero esto algunas veces ocurre. Por tanto, si se revisó cierta materia en su declaración del impuesto en cualquiera de los dos años anteriores, y si de la revisión no resultó cambio en su adeudo de impuesto, sírvase comunicarle el hecho cuanto antes a la persona cuyo nombre y número telefónico aparecen en el encabezamiento de su carta. Se suspenderá la revisión de su declaración hasta que hayamos examinado nuestros datos para determinar si se debe llevar la revisión a cabo.

Sin embargo, si su declaración fue escogida al azar para la revisión bajo el proceso TCMP, no se suspenderá la revisión y su declaración será examinada.

Al terminar el examen, nuestro revisor le explicará a usted (o a su representante autorizado) el cambio que pudiera proponer para ajustar su impuesto debido. Le explicará también las razones para dicho cambio. Es importante que usted en-

tienda cualquier cambio propuesto, así es que, por favor, no vacile en hacer las preguntas que desee sobre cualquier cosa que no le sea clara. Aunque en la mayoría de los exámenes individuales se llega a un acuerdo y se termina en este punto, usted no está obligado a aceptar el cambio propuesto y puede apelar de él, si así lo desea.

F. SI USTED ESTÁ DE ACUERDO

Si usted está de acuerdo con el dictamen del revisor, se le pedirá que firme un formulario de aceptación. Al firmar, usted indica que está de acuerdo con la cantidad que aparece en el formulario; y si debe impuesto adicional, usted paralizará 30 días después de presentado el formulario el recargo del interés aplicable. No se le cargará más interés (o penalidades) si usted paga la cantidad que debe dentro de los 10 días siguientes a la fecha de la notificación de dicho adeudo. Ahora bien, si usted paga el impuesto al firmar el formulario de aceptación, el interés se paraliza inmediatamente.

Si usted desea pagar, haga el cheque o giro pagadero al *Internal Revenue Service*. Incluya el interés al tipo anual aplicable sobre el impuesto adicional (no sobre las penalidades) desde la fecha de vencimiento para presentar la declaración hasta la fecha del pago. Si del examen resulta una devolución del impuesto, el Servicio de Impuestos Internos puede devolverle su dinero más rápidamente si usted firma el formulario de aceptación. Usted recibirá interés al tipo anual aplicable sobre la cantidad de la devolución.

II. DERECHO DE APELACIÓN

A. SI USTED NO ESTÁ DE ACUERDO

Si usted no está de acuerdo con los cambios propuestos por el revisor, y si el examen se hizo en una oficina del Servicio de Impuestos Internos, usted puede solicitar una entrevista inmediatamente con un supervisor y explicarle su posición. Si se logra un acuerdo en esta entrevista, su caso se cierra. Si no se logra un acuerdo, o si el examen en cuestión no se hizo en una oficina del Servicio de Impuestos Internos, le enviaremos a usted (1) una carta de transmisión, notificándole su derecho de apelar, dentro de 30 días, los ajustes propuestos, (2) una copia del informe de la revisión, que le explica los ajustes propuestos, (3) un formulario de aceptación y (4) un ejemplar de la Publicación 5, "*Appeal Rights and Preparation of Unagreed Cases.*"

Si, después de recibir el informe de la revisión, usted decide aceptar los dictámenes del revisor,

usted debiera firmar el formulario de aceptación. Puede pagar cualquier cantidad adicional que deba sin esperar la cuenta. Haga el cheque o giro pagadero al *Internal Revenue Service*. Incluya el interés sobre el impuesto adicional (no sobre las penalidades) al tipo anual en vigor, calculándolo desde el último día para la presentación de la declaración hasta el día del pago. Sírvase no enviar efectivo por correo.

Si, después de recibir el informe de la revisión, usted no acepta los dictámenes del examinador, nosotros le instamos a que apele de su caso primero para ante niveles más altos dentro del Servicio antes de ir a los tribunales.

Debido a que algunas veces las personas no se ponen de acuerdo en materia de impuesto, el Servicio tiene un sistema de apelación. Muchos casos pueden arreglarse en esta apelación sin que se tenga que recurrir al proceso en los tribunales.

No obstante, si usted no desea apelar de su caso para ante el Servicio, usted puede llevarlo directamente a los tribunales.

Las siguientes reglas generales le dicen cómo apelar de su caso.

B. APELACIÓN DENTRO DEL SERVICIO

Tenemos dos niveles de apelación dentro del Servicio, que son: El Grupo de Conferencia del Distrito (*District Conference Staff*) y la División de Apelación (*Appeals Division*).

Su primer nivel de apelación después de los dictámenes del revisor es el del Grupo de Conferencia del Distrito. Si usted desea una Conferencia de Distrito, solicítela de acuerdo con la carta de transmisión que le enviamos a usted. Nosotros, entonces, prepararemos una entrevista en el lugar y fecha más adecuados, y un funcionario del Grupo de Conferencia discutirá plenamente con usted o con su representante los puntos en discordia. Para ahorrar el tiempo y el costo de conferencias adicionales, usted o su representante deberán estar bien preparados para expresar sus puntos de vista y discutir en esta entrevista todos los puntos en discordia. Muchas diferencias se resuelven a este nivel.

Si usted y el funcionario no llegan a un acuerdo en su Conferencia de Distrito, usted puede apelar para ante el segundo nivel—el de la División de Apelación de la oficina del Comisionado Regional. Si usted no desea la Conferencia de Distrito, puede apelar directamente para ante la División de Apelación.

Si desea una audiencia en la División de Apelación, dirija su petición al Director de su Distrito de acuerdo con la carta de transmisión que nosotros le enviamos. El director de su Distrito le enviará su petición a la División de Apelación, la cual preparará una audiencia en el lugar y fecha convenientes.

Si no se llega a un acuerdo en su Conferencia de Distrito o en su audiencia de la División de Apelación, puede, en cualquier estado del procedimiento, llevar su caso ante los tribunales. Vea "Apelación para ante los Tribunales," más adelante.

C. ESCRITO DE PROTESTA

Para que su caso reciba pronta y plena consideración del Distrito o del funcionario de Apelación, tiene que presentar un escrito de protesta ante el Director del Distrito. No obstante, usted no tiene que presentar el escrito de protesta si

apela para ante el Grupo de Conferencia del Distrito y si:

- 1) El aumento o disminución propuesto de impuesto, o devolución reclamada, no excede de \$2,500 por alguno de los períodos contributivos a que corresponda; o
- 2) La revisión se hizo por correspondencia o en entrevista celebrada en nuestra oficina.

El escrito de protesta es necesario para lograr audiencia en la División de Apelación en todo caso excepto en aquellos (1) en que la cantidad en cuestión no excede del límite de \$2,500 descrito anteriormente y (2) en que usted apeló primero para ante el Grupo de Conferencia del Distrito. Si usted presentó la protesta para su Conferencia de Distrito, usted no tiene que presentar otra para lograr la audiencia en la División de Apelación.

Cuando se exige el escrito de protesta, debe presentárselo por duplicado en el término de 30 días establecido en la carta de transmisión del informe de la revisión y deberá contener:

- 1) La declaración de que usted desea apelar del dictamen del oficial examinador para ante el Grupo de Conferencia del Distrito o para ante la División de Apelación, según sea el caso;
- 2) Su nombre y dirección;
- 3) La fecha y símbolos de la carta de transmisión de los ajustes propuestos y del dictamen contra el que usted protesta;
- 4) Los períodos o años contributivos correspondientes;
- 5) Una lista detallada de los ajustes con los cuales usted no está de acuerdo;
- 6) Una exposición de los hechos que respaldan su posición en los puntos precisos discutidos; y
- 7) Una exposición señalando la ley u otra autoridad en la que usted se basa.

La exposición de hechos a que se refiere el número 6, más arriba, tiene que ser una declaración jurada bajo las penalidades por perjurio. Esto se puede hacer agregando al escrito de protesta la siguiente declaración firmada:

"Bajo las penalidades por perjurio, declaro que he examinado las exposiciones de hechos en esta protesta y en los anexos y declaraciones que se acompañan y, de acuerdo con mi mejor saber y entender, son verdaderas, correctas y completas."

Si su representante presenta el escrito de protesta por usted, él puede en sustitución hacer la declaración jurada expresando:

- 1) Que él preparó el escrito de protesta y los demás documentos que se acompañan; y

- 2) Si él sabe personalmente que las exposiciones de hechos contenidas en la protesta y documentos acompañantes son verdaderas y correctas.

D. REPRESENTACIÓN

Usted puede actuar por sí mismo ante la Conferencia de Distrito o en la audiencia ante la División de Apelación, o usted puede ser representado por un abogado, un contador público colegiado o un individuo registrado para actuar ante el Servicio de Impuestos Internos. Si el representante asiste a la conferencia sin usted, él tendrá que presentar un poder o una autorización para información de impuesto, antes de que pueda recibir o inspeccionar información confidencial. Para este propósito se pueden usar el Formulario 2848, *Power of Attorney (Poder)* o el Formulario 2848-D, *Authorization and Declaration (Autorización y Declaración)*, o cualquier otro poder o autorización debidamente preparado. Ejemplares de estos formularios se pueden obtener en cualquier oficina del Servicio de Impuestos Internos.

También puede traer testigos para respaldar su posición.

E. APELACIÓN PARA ANTE LOS TRIBUNALES: EN GENERAL

Si después de la conferencia o de la audiencia usted y el Servicio aún están en desacuerdo, o si usted no usa nuestro sistema de apelación, puede llevar su caso para ante el Tribunal Tributario de los Estados Unidos, el Tribunal de Reclamaciones de los Estados Unidos o el Tribunal de Distrito de los Estados Unidos que le corresponda a usted. Estos tribunales son cuerpos jurídicos independientes y no tienen conexión con el Servicio de Impuestos Internos.

F. TRIBUNAL TRIBUTARIO

Si en su caso hay desacuerdo sobre su adeudo adicional de impuestos sobre ingreso, sobre la mesa hereditaria (*estate tax*) o sobre donaciones (*gift tax*), usted puede ir ante el Tribunal Tributario de los Estados Unidos. Para hacer esto, pida al Servicio que le emita una carta formal, llamada notificación estatutaria de deficiencia. Tiene 90 días a partir de la fecha en que la carta es enviada para presentar la petición ante el Tribunal Tributario (150 días si es enviada a usted fuera de los Estados Unidos).

Debe asegurarse de presentar su petición a tiempo ante el Tribunal Tributario, porque si no, el adeudo propuesto le será cargado. Tan pronto ocurra esto, se le enviará un aviso del impuesto

debido (cuenta). Entonces estará obligado por la ley a pagar el adeudo en el término de 10 días. Si no paga el impuesto en este período, la cantidad debida quedará sujeta al cobro inmediato. Usted debe estar enterado de que una vez que el adeudo le haya sido cargado, el cobro del total de la cantidad debida es procedente, aunque, a su vez, esta cantidad sea excesiva. (La Publicación 586S, *Proceso del Cobro*, se encuentra disponible en las oficinas del Servicio de Impuestos Internos; en ella, se explican los procedimientos del cobro.)

El Tribunal señalará la audiencia de su caso en un lugar que le convenga a usted. Puede comparecer por sí mismo o puede ser representado por alguien autorizado para actuar ante el Tribunal.

Para los casos en que se disputan \$1500 ó menos por un año contributivo, el Tribunal Tributario ofrece un procedimiento alternativo simplificado. A petición suya, y con la aprobación del Tribunal Tributario, su caso puede tratarse bajo el Procedimiento Tributario de Menor Cuantía (*Small Tax Case procedures*). Con un pequeño costo en tiempo y dinero, usted puede presentar su propio caso ante el Tribunal y obtener una decisión valedera. Si su caso es tratado bajo este procedimiento, la decisión del Tribunal Tributario es final e inapelable. Usted puede obtener más información sobre el Procedimiento Tributario de Menor Cuantía y otros asuntos del Tribunal Tributario escribiendo a *United States Tax Court*, 400 Second Street, N.W., Washington, D.C. 20217.

G. TRIBUNAL DE DISTRITO Y TRIBUNAL DE RECLAMACIONES

Como se explica más adelante, usted puede presentar una reclamación de devolución de impuesto si después de pagar su impuesto usted cree que éste es erróneo o excesivo. Si su reclamación de devolución es desaprobada, usted recibirá una notificación estatutaria desaprobando su reclamación. Si nosotros no hemos actuado en relación con su reclamación dentro de los seis meses a partir del día en que usted la presentó, puede establecer un juicio reclamando la devolución. El juicio debe pedirse dentro de los dos años siguientes a nuestra desaprobación de su reclamación. Usted puede pedir el juicio reclamando la devolución en el Tribunal de Distrito de los Estados Unidos o en el Tribunal de Reclamaciones de los Estados Unidos. Generalmente, tanto el Tribunal de Distrito como el Tribunal de Reclamaciones conoce de los casos de impuesto solamente después que usted ha pagado el impuesto y ha establecido la reclamación de devo-

lución. Usted puede obtener información sobre el procedimiento para establecer juicio en cualquiera de estos tribunales comunicándose con el

Clerk of the District Court o el Clerk of the Court of Claims, 717 Madison Place, N.W., Washington, D.C. 20005.

III. RECLAMACIÓN DE DEVOLUCIÓN

A. CÓMO RECLAMAR LA DEVOLUCIÓN

Tan pronto usted pague su impuesto, tiene derecho a presentar la reclamación de devolución si cree que el impuesto es erróneo o excesivo. Puede reclamar la devolución presentando el Formulario 1040X *Amended U.S. Individual Income Tax Return*. Este formulario y la información para presentarlo se obtienen en cualquier oficina del Servicio de Impuestos Internos. Debe presentar su reclamación enviándola por correo al Centro del Servicio de Impuestos Internos donde presentó la declaración original. Las sociedades anónimas deben usar el Formulario 1120X o el formulario que corresponda al tipo de devolución que se reclama.

Se debe presentar un formulario separado por cada año contributivo. Usted debe unir a tal formulario una declaración respaldando su reclamación, incluyendo una explicación por cada artículo de ingreso, deducción o crédito en la que basa su reclamación.

B. TÉRMINO PARA PRESENTAR LA RECLAMACIÓN DE DEVOLUCIÓN: REGLA GENERAL

La reclamación de devolución debe presentarse en el término de tres años a partir de la fecha en que se presentó la declaración (las declaraciones presentadas antes del vencimiento del término se consideran presentadas el último día) o en el término de dos años a partir de la fecha en que se pagó el impuesto, lo que ocurra último.

C. LÍMITE EN LA CANTIDAD DE LA DEVOLUCIÓN: REGLA GENERAL

Si usted presenta su reclamación dentro de los tres años a partir de la fecha de presentación de la declaración, el crédito o la devolución no pueden exceder de la porción de impuesto pagado dentro de un periodo inmediatamente anterior a la presentación de su reclamación, igual a tres años más cualquier extensión del plazo para presentar su declaración. Si usted no presenta su reclamación dentro de este periodo de tres años, el crédito o la devolución no pueden exceder de

la porción de impuesto pagado durante los dos años inmediatamente anteriores a la presentación de su reclamación. La excepción a esta regla general se explica a continuación.

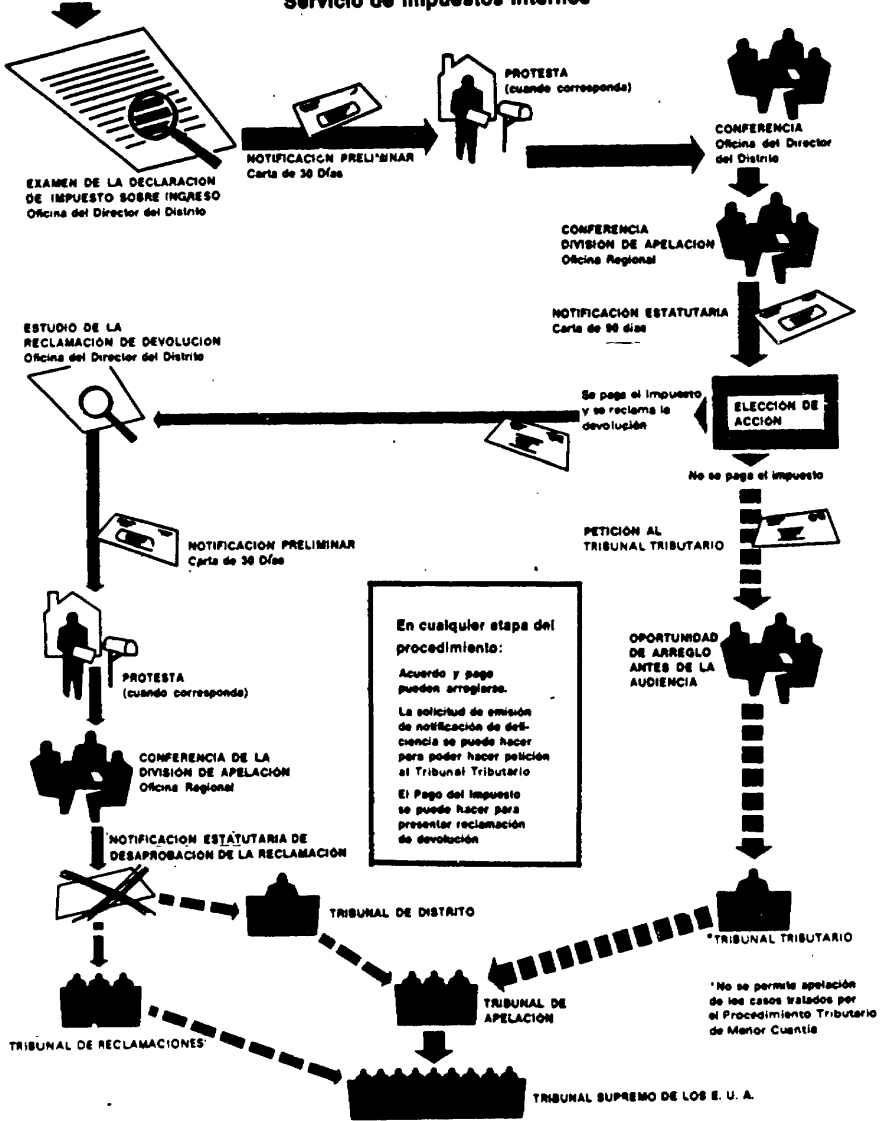
D. EXCEPCIÓN: PARA TIPOS ESPECIALES DE DEVOLUCIÓN

Si su reclamación de crédito o de devolución se basa en cuenta mala (*bad debt*), obligación sin valor (*worthless security*), pérdida neta de operación aplicada a años anteriores (*net operating loss carryback*), pérdida de capital aplicada a años anteriores (*capital loss carryback*), crédito por impuesto extranjero, o crédito por inversión aplicado a años anteriores; o si usted ha tenido un acuerdo con el Servicio de Impuestos Internos en el que se proroga el periodo de tasación del impuesto, usted puede tener derecho a presentar su reclamación en una fecha posterior a la señalada en la explicación bajo el título *Término para presentar la Reclamación de Devolución: Regla General* y el límite mencionado puede no ser de aplicación. En estos casos debe consultar al Servicio de Impuestos Internos para más información.

E. TRAMITACIÓN DE LA RECLAMACIÓN DE DEVOLUCIÓN

Las reclamaciones generalmente se empiezan a tramitar poco después de presentadas. Su reclamación puede ser aceptada como la presentó o puede ser sometida a examen. Si la reclamación es examinada, los trámites son los mismos que se usan para la revisión de la declaración de impuesto. No obstante, si usted presenta una reclamación de devolución basada solamente en diferencias sobre ingreso o en discusiones sobre impuestos sobre herencia o donaciones consideradas en declaraciones revisadas previamente y no desea apelar dentro del IRS, debe pedir por escrito que la reclamación sea desaprobada inmediatamente. La notificación de desaprobación se le enviará prontamente. A partir del recibo de la desaprobación, tiene dos años para iniciar juicio reclamando la devolución ante el Tribunal de Distrito de los Estados Unidos que tenga jurisdicción, o ante el Tribunal de Reclamaciones de los Estados Unidos.

PROCEDIMIENTO DE APELACIÓN EN IMPUESTO SOBRE INGRESO
Servicio de Impuestos Internos



Senator HASKELL. Now, it's my understanding that the Service would prefer people to come in person rather than to call. I can understand the difficulty the Service may have in answering telephone questions where the information given is not complete.

Do you have a reluctance to people phoning in questions, or is this incorrect information?

Mr. COPPINGER. Senator, I don't know what the source of that is, but actually the Service over the years has tended to encourage taxpayers to use the telephone for a number of reasons. One has to do with an area that I know you are sympathetic to and that's the elderly and disabled taxpayers. If we can help them over the telephone, it makes life so much easier for them. In addition, we're able to handle many more taxpayers over the telephone than we can in person.

So the emphasis in the Service in recent years has been to provide more and more telephone service, and encourage people to seek help over the telephone more than they have in the past. In fact, one of the efforts that we have underway right now is the installation of automated telephone communication equipment. Houston, Tex., is a test site for a very sophisticated system and uses wide-area telephone connections, no toll. Because of the concentration of telephone lines into that area coming through most of south Texas, we're able to specialize; and the sophistication of the equipment allows us to connect specialists with taxpayers much more easily than we have been able to in the past. So we're found that telephone help is very beneficial.

Now, I'm sure you've seen many different studies about the effectiveness and the accuracy of both walk-in and telephone service. I think those are valuable to us in a way, but I'm very often frightened by individuals who want to latch on to a particular percentage of accuracy and say how good that is.

For example, one of the most recent reports—I'm sure you have it available to you—is one by the General Accounting Office. I really should be very complimentary toward the report because our Southwest region came out with the highest rate of accuracy of any other region in the country. In fact, we were 94.3 percent, the highest in the country, well above the national average of only 85 percent.

Let me give you an example of what I'm talking about when I say the rates determined by these surveys cause me some concern.

One of the questions that many Internal Revenue Service officers had trouble with was one that GAO asked that, roughly paraphrased says, I was transferred from New York last March. I spent \$650 looking for a house and \$985 on meals and a motel while waiting on my house to be ready. I was not reimbursed for any of this. Can I take this as a deduction?

Well, in some places—thankfully not in this region—the accuracy rate on that was only about 25 percent. One would wonder how with such a simple question we could go so wrong. But I think I can tell you why. GAO expected the answer to be yes, subject to the maximum deduction for househunting and temporary living expenses of \$1,500 and a 30-day limit on meals and lodging.

What GAO really expected the assister to do was to probe and ask questions that would elicit this additional information. Well, when you do that, you create another problem.

For example, I could say that GAO's answer is wrong because the Code specifically provides that that has to be 30 consecutive days. GAO's answer doesn't include that important qualification. So depending upon what one expects as an answer, you can determine the answer given as either correct or incorrect.

So when judgments like that are introduced, and they must always be introduced incidentally, then the accuracy rate can vary very widely.

As to walk-in assistance, again, we're trying to specialize in that area. There has been some emphasis in recent years to try to swap staffing out of the walk-in area into the telephone assistance area. Mr. Milbachler can tell you that the rule in this region is that district directors and people on the front lines assisting taxpayers are not to concern themselves with how much staffing we swap around and schedule in one area or another. Their purpose is to make sure that the taxpayers are not subjected to extraordinary waiting times, that they are serviced, and that if we have a large number of people come in for walk-in assistance we'll help them. We can't force people to go in one direction or another, and it is not our intent to do so. So, I regret that was a very long answer to a very short question.

Senator HASKELL. Let's talk a little bit about assistance when somebody is subject to an audit. I think this is a problem and I think it scares a lot of people to death. My background is a lawyer and I remember one particular time when an agent looked at a return of one of my clients and said he was going to disallow an item. I said, "Sorry, buster, I'm going to the next level." But that's because I had a lawyer's background. The ordinary citizen who isn't a lawyer is scared to death to deal with the IRS. They're probably also scared to go to somebody for advice because they don't know what kind of bill will be charged. And the IRS has, as does all organizations, some people who are going to be arbitrary and capricious and just plain wrong. So one of the things that concerns me, is that when the average person gets a 30-day letter, which this was, they just panic. They don't dare go to an assister, because they're afraid of how much money it will cost; and they're too scared of the Internal Revenue Service to deal with them on their own.

Now at that level it seems to me this is where there should be a group within the Service that will help that man. Now, is there such a group?

Mr. COPPINGER. I agree with you and I would add one other facet to it. I'm sure, based on your own experience, you'll agree with this; I can be very casual and very calm as long as they're talking about examining your tax return but once you start examining mine, it's a different thing.

Senator HASKELL. That's right.

Mr. COPPINGER. Even as a tax collector, I agree with you on that. And it is true that the problems that you discussed impact the taxpayers, especially the ones who are not regular visitors to the Internal Revenue Service. Of course, we should have more concern for him than the guy who's always in tax difficulty.

One of the things that we have tried to teach our people and I think we need to work harder at it, is that an Internal Revenue agent

or a tax auditor is an equal representative of his Government and the taxpayer and that the real objective is to arrive at the correct tax, no more or no less.

Senator HASKELL. Theoretically.

Mr. COPPINGER. That's theoretically.

Senator HASKELL. Theoretically right, but as a practical matter not always so.

Mr. COPPINGER. Not always so. In fact, I've often said that probably to keep that in the minds of our employees we need to blazen it over every door in our offices so that when they leave the office, they are reminded of it everyday.

But, as you say, it is a very difficult concept to keep before the examiners. And so you come full-face with the problem, as you suggest. Once the examiner has made a decision, the taxpayer has to decide what to do next.

I know that the Service over the years had a very deep concern that many taxpayers agree to proposed changes in their tax liability not because they really agree but because of some of the problems that you've mentioned and also because of the substantial cost in wages to some individuals in connection with fighting it.

For example, you take a laborer today that may make \$12 to \$15 an hour. If he takes a day off to come down to appear for the conference and the proposed deficiency is only \$100 to \$200, he probably will come out on the short end as far as his take-home pay is concerned.

Our conferences are structured and will be structured even under the proposal that will be announced in a few days so that we try to strip it of as much formality as we possibly can. And so formal pretests and formal documents are not really, required.

We tried, as a result of our own insights and as a result of congressional help, over the past years to get more information to taxpayers about appeal rights. Taxpayers now are notified at the time they appear for examination of what their appeal rights are. A booklet is handed to taxpayers telling them what their rights are and how they can represent themselves if they want to through the administrative appeals channels.

Senator HASKELL. I wonder, though, whether there shouldn't be some people within the Internal Revenue Service, entirely separate from the chain of command, that the average person could go to. I wish you'd give that some thought. I'd like to have your recommendation on it. We are going to have a hearing in Washington, and I will get the Commissioner's recommendation too. It just seems to me that once somebody gets an official form stating that he owes the IRS money, that his tendency will be either to pay it out of sheer fear of the IRS or the fear of the additional expense. I wish you'd give some thought to a separate group within the Service who would be outside the chain of command and therefore not subject to superior rebuke within that chain. I mean, I had this one experience myself and I was prepared to go to court because I knew darn well that I was going to win and eventually, through the Internal Revenue Service, I did. But that was only because of my background and I

really feel that a person without an accounting or legal background just might have paid the deficiency asserted.

Mr. COPPINGER. I am sure that in many cases that happens.

Well, I don't want to upstage my boss, the Commissioner, but I think you'll be pleased with the notice of proposed rulemaking that will be issued in connection with one level of appeal because, briefly, under the proposal all of the appellate or conference function will be under the regional commissioner. As you probably know, there is a region and there's a district. The regions, in the past, have never been involved in examination activity. All of that occurs under Mr. Muhlbachler and other district directors like him throughout the country. And so that chain of command exists at the district level. Regional commissioners are broad program implementors and very rarely get involved in cases as such. We have had an appellate activity, but that appellate activity in the past has been the second level of appeal. The new system will provide one appeal level and taxpayers then will move under that appeal level when they has a disagreement at the district level. So he would then be outside of the district director's chain of command in connection with the appeals process.

This will be no more complicated than it has been in the past. For cases involving less than \$2,500 in tax adjustment, a simple letter saying I don't agree, will suffice for handling the protest end of the thing. And in addition to that, conferences will be held in every place that they are held now. In other words, there would be no reduction in the number of sites or availability of conferences.

Senator HASKELL. That may well get the job done.

Mr. COPPINGER. But I will certainly give it some additional thought as a result of your request.

Senator HASKELL. I would appreciate it.

[The prepared statement of Mr. Coppinger follows:]

STATEMENT OF WALTER T. COPPINGER

Mr. Chairman: I am honored to be asked to appear before you today. I am also very pleased to take part in such a worthwhile undertaking knowing that our mutual objective is a better, more easily understood tax system for all U. S. citizens.

Before I begin any discussion of taxpayer problems I would like to outline for the subcommittee the major characteristics of the Southwest Region of the Internal Revenue Service.

CHARACTERISTICS OF THE SOUTHWEST REGION

Headquartered in Dallas, Texas, the Southwest Region comprises eight states with one of them, Texas, divided administratively into two districts, for a total of nine districts. In addition, Regional management responsibilities include the Service Center at Austin, Texas.

Broadly speaking, the territory is slightly less than one-fourth of the total United States land area with one-eighth of the country's taxpayers. Servicing them are 9,000 IRS employees—about one-tenth of the Servicewide total.

Because of our work and because we have such a direct effect on the lives and fortunes of so many people, we have a sensitive, personal relationship with our more than 10 million individual taxpayers. There is no way to estimate how many separate, individual contacts our employees make in auditing 360,000 returns each year, in disposing of 240,000 delinquent accounts annually or in responding to five million taxpayer questions through telephone calls or person-to-person contacts. But obviously we are a part of the lives of many people and well understand our responsibilities in that regard.

EQUITY VERSUS COMPLEXITY

Few would disagree with a statement that our tax system is complex, and many will argue that it should be simple. But those who understand modern systems recognize that simplicity and equity are often inconsistent goals.

In his testimony last week before the Subcommittee on Oversight of the House Ways and Means Committee, Commissioner Kurtz noted that certain complexities are inherent in our societal decisions to produce federal revenues through a graduated income tax while others relate to efforts to achieve other policy goals. The Commissioner stated:

The goal of simplification of the tax system must be weighed against the goal of equity. As a matter of equity, Americans have chosen a graduated income tax as the proper means of determining the taxpayer's ability to pay. Inherent in this system are complexities resulting from the necessity of defining taxable income and applying graduated rates. In addition to the complications inherent in a graduated income tax, complexities have been added to the Internal Revenue Code in an effort to achieve various economic and social goals. These 'tax expenditures' complicate the tax law and are unrelated to a taxpayer's ability to pay.

The great complexity of our present tax law is the result both of using the tax system to address a wide variety of non-tax goals and of attempts to achieve a goal of absolute fairness through elaborate definitions, limitations and exceptions to each deduction or credit allowed.

These refinements, while well intentioned, have produced a system of baffling complexity for many taxpayers. As a result, such carefully targeted provisions frequently miss the mark. For example, the medical expense deduction with its separate floor for drugs and other expenses and its special allowance for insurance premiums subject to a ceiling is very carefully constructed, but our last TCMP study showed that the deduction was in error in over 70 percent of the returns examined. I believe we have reached the point where complexity itself is producing unfairness.

Viewed in this light, all complexity is not bad. Hopefully, much of the complexity present in the Internal Revenue Code is a result of our striving for equity; but at times where we have added complexity and, due in large measure to that complexity, we have apparently missed the mark in achieving the policy objectives. In the example cited by Commissioner Kurtz (the medical expense deductions), had we audited all taxpayers, the fact that our TCMP sample indicated a 70 percent error rate would have required a substantial number of adjustments.

As another example, the Revenue Act of 1962 added Section 274 to the Internal Revenue Code. Its intent was honorable—to prevent the deduction of personal expenses as business expenses. Essentially Section 274 states that no deduction is to be allowed for expenditures for travel, entertainment, or gifts unless the taxpayer substantiates by adequate records, or by sufficient evidence, corroborating his/her own statement. On the surface that seems fair and equitable. The problem arises when the taxpayer fails to keep adequate records. Take, for example, an independent trucker who spends several weeks away from home. He can substantiate the fact that he was in several different cities on specified dates through manifests, bills of lading, etc. However, he has only a few motel receipts and virtually no receipts for meals or other expenses.

Strict interpretation of Section 274 would require us to disallow all unsubstantiated deductions despite the fact that we can be certain that some were incurred. While he may have slept in the truck every night, there would have been some costs for meals. But Section 274 really gives the Internal Revenue Service no leeway nor do we necessarily want it. At the same time, the paperwork burden imposed on the taxpayer is significant.

Most affected are the small business operators, traveling salespersons as well as truckers.

I would like to offer one other example in this complexity-equity discussion and then go on to an explanation of how the IRS meets the complexity challenge. The example: Earned Income Credit.

We in the IRS who struggle with the complexity-equity problem daily can empathize with the problems Congress faced in drafting the EIC legislation. Equity was achieved—at least to the degree intended by the law and its companion, complexity, necessarily followed. The problem was that this provision—

intended for low income people—was too complex for the potential recipients to fathom. The qualifications—simplified in 1977 from the prior year—remained difficult to communicate. The computations required to calculate the credit were difficult for the disadvantaged taxpayer who would be the most likely recipient.

The IRS waged a massive publicity campaign to create public awareness of the Earned Income Credit. Since potential recipients were often not individuals who had prior contact with our system and since they were not reliably reached through newspapers or television news, we used different avenues of communication. We contacted community groups, put up posters in the neighborhood stores and post offices, put posters on buses, distributed simple hand-outs through schools and state employment and welfare agencies, and made contacts through means that we had never used before. At the same time, we used conventional information means to reach employers with the message and requested that they advise their employees of the provisions of EIC.

On another tack, we used our Service Center computers to identify taxpayers who might be eligible for Earned Income Credit but didn't claim it. These were sent special notices and, if they qualified, the credit was applied to their tax accounts—in most cases a larger refund resulted. But despite all our efforts, we could never be sure that we had been 100 percent effective. And this will always be a problem in the case of refundable credits for we can never know if we have reached and notified all the individuals who are not otherwise required to file.

My point in developing this example is to illustrate the effect of complexity on taxpayers and the IRS. Our mission—in the broadest sense—is to serve the taxpayer and frequently that means helping him or her get through the maze of our tax system. Where most taxpayers come into direct contact with that assistance is through our Taxpayer Service.

TAXPAYER SERVICE

Over the past few years, in dealing with and trying to improve the ability of the average taxpayer to comply with the tax laws, the Revenue Service has greatly increased its capacity to directly serve and communicate with taxpayers. New organizations and procedures, along with increases in resources for existing services, have characterized this effort. We are constantly introducing technical innovations, such as new telephone switching equipment, to enhance our ability to provide service while holding the cost of this service to reasonable levels. I would like to discuss in some detail the more significant efforts in this area.

Foremost in any discussion of providing direct service to the public is our formal Taxpayer Service organization. Taxpayer Service, as a major line function of the Revenue Service, is now organizationally on a par with the more traditional functions; i.e., Audit, Collection, and Intelligence. The recently announced reorganization plan for the Internal Revenue Service will further reinforce the organizational position of Taxpayer Service by grouping other principal direct Service activities with Taxpayer Service and by separating it from the enforcement oriented Collection function at the national and regional levels.

To illustrate the growth of Taxpayer Service efforts in the past few years, in Fiscal Year 1975 the Southwest Region employed 474 people (45 in the Denver District) in the Taxpayer Service organization. In Fiscal Year 1977 this had grown to 594 employees (60 in Denver), an overall increase of slightly over 25 percent in 2 years. These employees in Fiscal Year 77 answered slightly over 5 million taxpayer questions (500,000 in Denver).

We now have toll-free telephone answering centers for tax information covering all sections of the country. Every taxpayer is able to reach an IRS assistor by telephone without charge. Now that this first step is accomplished, making the basic service available, we are concentrating efforts on improving the quantity and quality of service. Some consolidation of smaller telephone answering sites has occurred and technologically advanced equipment is being installed in several locations. Here in the Denver District, for example, telephone assistants answer calls from taxpayers in Wyoming. This consolidation permits calls from Wyoming taxpayers to be handled by an organization large enough to support the specialization needed to deal with complex questions and to enable use of more sophisticated routing and monitoring equipment. In our

Houston Office, we are experimenting with computer controlled call distribution equipment which not only speeds up the handling of calls but also provides the means to automatically identify situations such as understaffing, slow response times, equipment deficiencies, etc.

In addition to the telephone service provided at central locations, walk-in service is also provided at 121 locations throughout the Region. At all locations, self-help methods are stressed in accordance with IRS policy. However, if the taxpayer is unable to complete the return without our assistance, we will prepare it. We believe this is a sound approach since resources are limited and we are interested in providing as much assistance as possible. Also, I hope that through self-help methods taxpayers will become more familiar with the mechanics of tax form preparation and will become knowledgeable of the requirements of the law as it deals with their situation.

TAX FORMS SIMPLIFICATION

Our Taxpayer Service efforts for the 1978 filing season have been measurably helped by the simplification that was accomplished in the tax forms for the 1977 tax year and the simplified tax tables that go along with them. This simplification was made possible to a great extent because of the Tax Reduction and Simplification Act of 1977. Line by line review of all the forms, schedules, and instructions; public hearings on Forms 1040 and 1040A; and pretesting of forms proofs on groups of taxpayers all contributed to this achievement. Because of this year's success, these efforts will be repeated for the 1978 and 1979 tax forms. In fact, I have recently learned that hearings will be held in Denver in the near future on the question of tax forms.

The major improvement in forms was the 1040A. The format was rearranged for taxpayer convenience, the number of line entries was reduced from 25 to 15, and all multiplication calculations eliminated. The Form 1040A instructions were rewritten and rearranged to clarify and emphasize important messages, especially in those areas where our testing of the form revealed potential trouble areas. I understand that this has resulted in an overall four grade reduction of the reading level needed to understand the instructions.

Elimination of multiplication calculations was made possible by new tax tables developed with the zero bracket amount (formerly called the standard deduction), deduction for personal exemptions, and general tax credit built in. Also, those Form 1040A filers who want the IRS to compute their tax will benefit most from the changes. Now a filer only needs to complete the form through Line 11a, then sign and date it. The IRS will do the rest.

But the bottom line question on form simplification is, of course, is it working? We think it is and the statistics seem to bear this out. There have been significant drops in the error rates for forms filed this year as compared to those filed during a similar period last year. I have a table showing the latest figures for returns filed in the Southwest Region which I would like to introduce into the record. The table shows that, based on our latest statistics, the Southwest Region has experienced a decrease in 1040A returns with mathematical errors from 12.2 percent last year to 5.5 percent this filing season, and a decrease from 7.9 percent to 5.5 percent for the 1040. Similar decreases are showing up nationwide.

Reductions in errors vary among different forms, different methods of preparation, etc., but are generally consistent in most cases. Of course, we do not know all of the factors which might have contributed to this drop, but we are certain that this year's simpler forms and tables, along with elimination of multiplication for many filers, was a major cause. We would have been severely disappointed had this not occurred.

DISTRIBUTING FORMS

One other aspect of the tax forms questions bears a brief discussion. This is the monumental task of distributing forms to those who need them and providing supplies on call throughout the filing period. As you might well imagine, this is a gigantic guessing game which the IRS must play annually. There are few pieces of Government property less valuable than last year's tax form—and the instructions for filling it out. Printing and distributing forms costs money—a lot of money—money that the IRS would much rather use in

front line operations. So the bane of the existence of our tax forms preparation people is changes in the law which occur late in the year.

The other side of the tax forms coin involves how to get them to the people who need them. For those people who filed a return last year, the Service Center computer automatically creates a mailing label to send that person a forms package for this year. Special distributions based on computer lists are also made to practitioners, banks and post offices which make tax forms available to the public. But the large volume of business occurs from people who need a special schedule, who want work sheet forms, who want to file a different form, and from those practitioners who are not on our regular mailing list. For years, the district offices handled distribution of these forms from each district using temporary employees hired for the filing period alone. Last year in the Southwest Region, a central forms distribution point was established as a part of the Austin Service Center. This organization was expressly designed as a forms distribution entity with production line type equipment installed. As a result of our experience with centralized distribution last year, we have concluded that this approach definitely improves service, reduces costs, and minimizes backordered forms and forms production bottlenecks. The Austin Distribution Center fills forms orders for individual taxpayers in all states of the Southwest Region and practitioner orders for all states except Colorado, Wyoming and Kansas.

PROBLEM RESOLUTION

During Fiscal Year 1977, the Service implemented a nationwide Problem Resolution Program to provide an internal system for solving complaints and other taxpayer problems which have not been solved through normal procedures. Of course, these "normal procedures" are designed to solve problems—and they do—millions of times. But as in most human institutions, things sometimes don't go exactly as planned. We live in the age of the "faceless" computer and one of the most used adjectives is "big." We talk of big Government, big business, etc., and the average person becomes frustrated with attempts to deal with the "big" organization. We are constantly reminded that computers do not make mistakes—but unfortunately the people who run them often do—and that includes IRS people. The Problem Resolution Office was established to provide a mechanism for quickly researching the cause of difficulties taxpayers have with any part of our system, to cut across any internal functional divisions to arrive at solutions, and to cause those solutions to happen quickly. Another vital service these offices perform is to put a "face" on the "faceless"—to underscore the fact that an interested, concerned employee of the Revenue Service is dealing with the problem. Our experience with Problem Resolution overwhelmingly confirms the need for such an organization and its value to the Service and to taxpayers.

But problem resolution doesn't work unless it is used. Many referrals are internal by IRS employees, but problem resolution has also been publicized in several ways. Posters in both English and Spanish have been used in some districts. Special complaint forms are also available in walk-in areas. Through the efforts of district Public Affairs officers, articles and discussions have appeared in newspaper "Action Hot-Lines" as well as CPA and tax practitioner newsletters. Service representatives have talked about problem resolution in numerous speeches throughout the Region. Telephone listings are being used. In Denver, for example, the Problem Resolution Officer (Special Assistant to the Director) has been listed in the metropolitan telephone directory since last October.

In addition to helping taxpayers directly, Problem Resolution Offices have also proved valuable in other ways.

Intermediaries such as Congressional offices, tax practitioners, etc., find dealing with a Problem Resolution Office on behalf of a taxpayer much simpler than trying to determine which internal element of the Service should be contacted.

Problems needing top management attention are more timely recognized because of the "spotlighting" effect of the problem resolution operation.

While, as I stated Problem Resolution Offices have been implemented in all districts, many questions have yet to be answered regarding the most effective means of delivering this service. The House of Representatives Oversight Subcommittee recently delivered an excellent report on the status of problem reso-

lution. The report recognized the questions which remain but stated, in part, ". . . The Subcommittee concludes, generally, that the Problem Resolution Program appears to have the potential to be a successful methodology for surfacing and resolving in a timely manner the difficult or persistent problems that some taxpayers have experienced in their dealings with IRS." In the Southwest Region, I expect and intend for the program to reach that potential.

THE APPEALS SYSTEM

Another of our major direct services to taxpayers is the internal appeals system. Taxpayers who disagree with the decisions of an examining officer may request an independent review of any proposed deficiency. Over the past few days, the Service has made strong efforts to ensure that taxpayers understand their appeal rights and to provide speedy and convenient resolution of disputes. District conferences, which constitute the first formal level of appeal, are normally offered within 45 days (90 days if travel is required) and in a location convenient to the taxpayer. The Appellate Division uses a "circuit riding" technique to make this highest level of appeals service more accessible. Our statistics show that more and more "small" disputes now reach the Appellate level reflecting, in part, much more readiness to accept and use the appeals system by less sophisticated taxpayers.

While principally a benefit to the taxpayer, the appeals system has "something" in it for the IRS, too. This increased activity at the lower end of the economic chain provides us a unique opportunity to improve the examination process. By studying the results and the history of such cases, we can highlight any deficiencies which had gone undetected through normal reviews. Ideally, if the public had complete confidence in our appeals system, a mistake or error at the examination level would always result in an appeal.

In order to capture this benefit, I recently asked the directors in this Region to look into the small cases going into the Appellate system and to see if improvements in the examination process could be identified.

One more appeals channel was added to the tax administration system with establishment of Penalty Appeals Officers in the district Collection Divisions. Taxpayers may now administratively appeal certain penalty assessments, subject to abatement for reasonable cause, prior to or *after* payment, but before appeal to the courts. In the past, the taxpayer could not appeal a rejection of a claim without first paying the penalty.

Service employees are instructed to consider all taxpayer requests for abatement and to determine whether the taxpayer's reason for not filing a return or for not performing some other act timely constitutes reasonable cause. The Code sections relating to many penalties provide for assertion unless it is shown that such failure is due to reasonable cause and not due to willful neglect. Employees who consider requests for abatement use good judgment in determining whether the taxpayer's reason constitutes reasonable cause.

The Penalty Appeals Officer's function is not one of automatic review of such judgments but is strictly to provide an appeal channel for a taxpayer whose original request was rejected. Taxpayers are informed of their right to appeal a denial of abatement in the letter informing them of denial including the name, address, and telephone number of the appropriate Penalty Appeals Officer. If the appeal is subsequently denied, the taxpayer is fully informed of his/her rights to file suit in U.S. District Court or the U.S. Court of Claims within 2 years after the amount due has been paid. From May of 1977 until February 1978 (the system was implemented April 29, 1977) a total of 483 appeals were processed in the Southwest Region. One hundred eighty-nine appeals were approved and 249 denied for an overall Regional approval rate of 43 percent. Regional Office personnel have visited seven of the nine Southwest Region districts to review implementation of this program. (The remaining two districts will be visited shortly.) Their analysis, based in part of a review of a sample of closed cases, indicates that decisions reached by Penalty Appeals Officers are generally reasonable and consistent with published guidelines.

This new appeals channel is likely to have severe usage in the near future, not so much from taxpayers but from practitioners who run afoul of one provision of the 1976 Tax Reform Act. This is the provision of a penalty for failure to sign or furnish an identifying number of returns prepared by tax practitioners (defined as a person who prepares the returns of others for compen-

sation). The penalty is \$25 per return and applies unless failure is due to reasonable cause. A number of these penalties were assessed nationwide last year but were later abated because the law was new and possibly not well understood by practitioners.

For returns prepared after December 31, 1977, the Service again began to assess the penalties. Through March 15, 1978, the Austin Service Center made 274 assessments for \$67,450 (2,698 returns)—most for failure to furnish the SSN of the preparer. Requests for abatement because of reasonable cause are being received at the Austin Service Center but because of the reasons stated in these requests, most are being denied. The letter advising the practitioner that his/her request has been denied will inform him/her of the penalty appeal procedure. I am sure that many will avail themselves of this privilege.

To assure uniform consideration of these cases, a meeting was held in the Austin Service Center on March 16, 1978, to discuss the activity in this program. All district Penalty Appeal Officers plus Service Center employees who are involved in the assessment and consideration of requests for abatement attended this session.

The volume of these penalty assessments will probably increase (both units and dollars) since the assessments made up to March 15, 1978, represent only the returns processed early in this year's filing period.

There may be some changes in the IRS Appellate structure in the near future as a part of the Service's reorganization. A draft notice of proposed rulemaking is now being prepared for release to the public which will propose changes to the system of appeals. I am unable to speculate as to exactly what form these changes will take, but I can assure the subcommittee of one fact. Regardless of the final organizational configuration of the internal appeals system, no service now offered to taxpayers will be reduced nor will any inconveniences be introduced (such as increased travel) for those using the system.

THE REPRESENTATION ISSUE

But an appeals system, no matter how fair or accessible, is useless unless people are willing to use it—and trust it to work. A recurrent and thorny issue has always been the extent to which a lack of confidence and fear of dealing with the "big" impersonal Government biases the system against the so called "little man."

As a tax administrator, I have long been concerned about this question and its possible impact on the fairness of the system. In response to the allegation that the "little man" pays more taxes than he should because he does not understand the law and fears the Revenue Service, there has been little factual rebuttal—in fact, the allegation may be true. But even if true, the questions of why? and what to do about it? still remain. To see if we could at least get some insights into these thorny questions, the Southwest Region, with the cooperation and assistance of the Southern Methodist University Law School, began a test program to determine the impact of legal representation on the audit process where lower income taxpayers are concerned. The law school formed a tax clinic staffed with third year law students under the supervision of a licensed attorney. (Participation in the clinic was a credit activity for the students.) Taxpayers with proposed tax deficiencies were informed of the clinic's existence by the examining officer and offered the opportunity to be represented in further discussions with IRS.

We are tracking the outcome of all cases in which the taxpayer accepts the offer of representation, including requesting a subjective evaluation of the effects of representation by the IRS examiner, the taxpayer, and the law student. At the close of the current semester, we plan to evaluate the cumulative results of the test. Hopefully, we will gain some definitive information as to the lower income taxpayer's need for representation under present guidelines and what, if any, changes in IRS procedures might better enable these people to successfully deal with the tax administration system.

To date, 32 law students have participated in the program; and data has been obtained on 85 cases closed with their assistance. In 62 percent of the closings (53 cases), the original deficiency proposed by the examiner was reduced.

Taken out of context, these statistics would tend to indicate that unrepresented lower income taxpayers do take a beating in the audit process. The fact

that the sustention rate for small deficiencies is much higher than for large ones is also often cited as proof that the system is, in fact, rigged against the "little man." In both cases, this is not necessarily true. Just as the greatly increasing complexity of issues impacts sustention rates, our preliminary reviews indicate that a major factor resulting in changes in proposed deficiencies for taxpayers represented by SMU law students is documentation—both the taxpayer's willingness and ability to produce it as required by the law. An interesting sidelight in this test has been the fact that, in a number of cases not resulting in change, the assurance by the law student that the Service's position was correct has aided the closing of cases. Obviously, the confidence factor (or lack of it) is a problem which we must learn to deal with more effectively.

Our experience with the SMU program leads me to believe that such programs, properly monitored and supervised, may be a valuable addition to our relations with taxpayers. The Commissioner and those responsible for certifying practitioners to appear before the Service at Treasury are giving this matter careful consideration.

SAFEGUARDING TAX INFORMATION

I want to mention briefly one other area—that of taxpayer privacy—which impacts somewhat on our ability to provide taxpayer service. The possible unauthorized disclosure of private information contained in tax records has always been of great concern to the Revenue Service. The disclosure provisions of the Tax Reform Act of 1976 are both extensive and complex, and we are now completing only the first year of operation under the new laws. As you can appreciate, we are still working out some operational problems associated with these provisions and are seeking to do so in a way which both permits us to continue our service to the public and preserves a goal of common interest to Congress and the Service—taxpayer privacy. In certain instances, business previously handled by telephone sometimes must be transacted face-to-face. Practitioners sometimes have difficulty resolving problems for their clients because of our inability to discuss a taxpayer's affairs with a third party absent specific disclosure authorization. IRS employees tend to treat this question very cautiously in view of the express Congressional concern for taxpayer privacy and the severe penalties provided for unauthorized disclosures. I consider this problem an excellent example of a well intentioned and needed point of law creating complications and effects beyond those intended. These matters are currently under consideration by Commissioner Kurtz and others in our National Office.

COMMUNICATING WITH TAXPAYERS—THE LANGUAGE BARRIER

One final factor in our efforts to better communicate with taxpayers involves dealing with those who literally cannot communicate with us because of the barrier of language. We are particularly sensitive to this question in the Southwest Region because of our extensive Spanish and Indian populations and feel a unique responsibility to be sure that lack of fluency in the English language in no way compromises or abridges the rights of any citizen. To illustrate the extent of this Region's responsibilities in this area, of the 48 counties in the United States where Hispanics represent more than 50 percent of the population, 46 are in our states—3 of these counties are in Colorado, 15 are in New Mexico, and 28 are in Texas.

The Revenue Service has made extensive efforts to be sure that key publications normally available to the public are printed in Spanish language form. These include both our explanation of the collection process and of the audit of returns, appeal rights and claims for refund. We also have a guide for preparing individual income tax returns and an English, Spanish glossary of words and phrases used in publications issued by the IRS. The Volunteer Income Tax Assistance Program course book is also issued in Spanish. We make every effort to assure that taxpayers who are not comfortable in the English language, or in some cases can communicate only in Spanish, are served by bilingual IRS personnel. There are a total of 148 bilingual personnel available to provide assistance at 39 different locations in the Southwest Region during the filing period. The bilingual assistance is primarily in Spanish. While

the majority of the personnel and sites are located in Texas and New Mexico, the Denver District has 32 employees at four sites capable of providing assistance. Where we cannot acquire sufficient bilingual applicants through the normal hiring process, we request selective certification of bilingual applicants from the Civil Service Commission.

I want to underscore that we are not casual on this point, but aggressive. I do not believe it is acceptable to use English speaking employees in contact with Indians or Spanish speaking taxpayers who "speak English" but in fact cannot adequately represent themselves in the English language.

The Southwest Region also has significant Indian population in several areas. The language difficulty is particularly acute with respect to the Navaho tribe in the state of New Mexico. We have dealt with this problem by a program of training personnel of the Navaho Tribal Council who can, in turn, act as taxpayer assistants for the individual members of the tribe. This is, in fact, an extension of the Volunteer Income Tax Assistance Program and again is designed to permit the taxpayer to deal with the Revenue Service or with his/her tax obligations in his/her language of convenience. While our direct assistance to taxpayers occurs hundreds of times daily, there are indirect contacts taking place at 10 times that rate.

COMMUNICATING WITH TAXPAYERS—OTHER EFFORTS

Most frequent are the indirect contacts that result from our taxpayer information efforts. Through their news and information media, taxpayers are exposed to films on how to prepare Form 1040A, alerted to special tax credits for business persons, reminded to apply for the Earned Income Credit, if eligible, and told of their responsibilities if they are an officer of a tax exempt organization.

Specialists in each of our districts examine local taxpayer information needs using data obtained from Taxpayer Service, the service centers and from the private sector locally. With this knowledge they then develop—with the assistance of the regional and National Offices—information materials tailored to meet those local needs. In addition, they work through various local news media to assure the widest possible dissemination of general tax information in a form that is understandable to the public-at-large. But the public-at-large is not our only target audience. We use special interest news media to provide taxpayer assistance to professional groups, retired persons, businesses, tradespeople, union members, and a variety of special segments of society with special tax problems.

Another way in which we provide assistance indirectly is through the tax practitioner. The practitioners—CPAs, attorneys, public accountants, commercial preparers—are responsible for completing 52 percent of all returns filed; and while that percentage has not been growing in recent years, we in the IRS do not underestimate the importance of this group.

We maintain contact through liaison groups of the Bar and CPAs and by holding annual seminars for all practitioners. These seminars or institutes are our way of improving the quality of the tax returns prepared. Usually held in the fall, they provide refresher training for preparers and permit us to point out changes in the law and special circumstances that may apply.

Finally, we keep the practitioner alert to law and regulation changes through newsletters and speeches. Directors in each of our nine districts will distribute newsletters on an average of four times a year—more when special circumstances warrant. In addition, the directors periodically address practitioner groups both in and out of the filing season.

Our motive, of course, is to serve the taxpayer. For just as we made every effort in the past to rid this system of the incompetent or unethical preparer, our intent has always been to do what we can to improve the capabilities of the honest ones that remain. By so doing, we feel the taxpayer is the eventual and real beneficiary.

VOLUNTEER INCOME TAX ASSISTANCE—VITA

Still another way in which we assist the public through the complexities of the tax system is by taxpayer education. For several years various districts have promoted Volunteer Income Tax Assistance programs. Through Volunteer

Income Tax Assistance IRS trains volunteers who, in turn, offer assistance to taxpayers at convenient locations throughout their communities. The Volunteer Income Tax Assistance program focuses primarily on providing assistance to lower income elderly or non-English speaking taxpayers. Earlier, I cited our efforts in this area to assist Indians and those whose language of convenience is Spanish. At this point, I would like to concentrate on our efforts to assist the elderly.

This year, as a result of a special appropriation of additional Congressional funds for Volunteer Income Tax Assistance, we have expanded this program so that this free assistance can be provided to a greater number of taxpayers. Presently, Volunteer Income Tax Assistance provides a special tax assistance program for the elderly in conjunction with organizations such as the National Retired Teachers Association and American Association of Retired Persons. Volunteer Income Tax Assistance materials, which are geared to volunteers with little or no background in tax preparation, contain special chapters with information for the aged. In addition, local efforts are made, where time permits, to visit locations with a high concentration of elderly taxpayers, such as nursing homes, hospitals, and retirement homes to provide assistance.

OTHER TAXPAYER EDUCATION EFFORTS

But while the elderly—along with low income and non-English speaking taxpayers—get a large share of attention, we do not ignore the younger elements of our society. "Understanding Taxes" is a course in basic tax return preparation for high school students. The program introduces students to a tax vocabulary and explains how to prepare and file a form 1040A and a form 1040 with schedule A. It is designed for young people who are filing for the first or second time. While the tax course deals mainly with 1040A, it does expose students to other forms, schedules and terms that will be helpful to them if they need to file a more complex return. The course is designed so that teachers can integrate it as a unit into their classes. It is usually taught for 1 or 2 weeks during the filing season in business, civics, economics, social studies or math classes.

Understanding Taxes is the Service's oldest IRS school program. It began in 1954 as a local project in the District of Columbia. Today its program materials are shipped by a computerized distribution system to more than 33,000 high schools and other ordering accounts such as vocational schools, business colleges and prisons. More than four million publications were printed in 1976 and three award-winning films produced in 1974 continue to supplement the text materials.

COMPLIANCE ACTIVITIES

There is one final area of service to the taxpayer that should be mentioned. Unlike those preceding, this service will probably not aid the taxpayer in plowing through the complexities of the system. But it will provide assurance of equity or at least equal treatment under the law. I am referring to our compliance activities. The men and women of IRS walk a tortuously narrow path. We are, as I said, a service organization, but we are also in business to separate the taxpayer from taxes justly due. At times, however, the taxpayer may disagree either with the justice or simply the act of a separation, and as a result, may not pay those taxes when due. It is the duty of our Audit and Collection forces to examine the merits of those cases and to act to secure compliance under the law. If criminal intent appears involved then, of course, our Intelligence people are required to investigate.

Most taxpayers fall to view these activities as a service—a position we can certainly understand. But the fact remains that active compliance programs can and do assure that each taxpayer is paying only a fair share.

TAX SIMPLIFICATION—THE ISSUE SIMPLIFIED

In closing, I would like to return briefly to the subject of tax simplification, and quote from Commissioner Kurtz' paper to the Eleventh General Assembly of the Inter-American Center of Tax Administrators (CIAT). He said, "As one would expect, each of the special provisions conferred by the present Code has a substantial block of support in the form of those who benefit from the

provision. So we can almost guarantee a lively debate over each attempt to remove a complication provision. Of course, the removal of special provisions or the reduction of their benefits could be accompanied by tax rate reductions so that in total there could be no revenue effect from these adjustments. Nevertheless, some taxpayers will come out worse and some will come out better. And, if history provides us with an accurate portrait of human nature, those who come out worse through simplification will have a kindlier view of complexity than they may have had in the abstract." He did not mean to imply that the task was hopeless, but rather that it was very difficult. And to the degree that we in the IRS can properly assist in simplifying the system, we will. Needless to say, most taxpayers come into contact with the complexities of the system only once a year. We in IRS are dealing with it day in and day out. Our interest in simplification is therefore intense.

That concludes my opening statement. I will now answer any questions which you may wish to pose.

SOUTHWEST REGIONAL ERROR STATISTICS

Southwest region	Jan. 1 to Mar. 11, 1978				Jan. 1 to Mar. 12, 1977				Change in error rate, percent	
	Returns processed	Returns with errors	Error SWR	Percent United States	Returns processed	Returns with errors	Error SWR	Percent United States	SWR	United States
IRS prepared:										
1040.....	1,229	44	3.6	3.5	2,884	138	4.8	4.5	-25	-22
1040A.....	7,597	148	1.9	1.7	18,264	405	2.2	2.5	-14	-32
IRS reviewed:										
1040.....	491	21	4.3	3.1	800	31	3.9	3.6	+10	-14
1040A.....	4,967	97	2.0	2.0	8,911	259	2.9	2.6	-31	-23
Third party prepared:										
1040.....	756,203	27,247	3.6	3.8	1,191,740	67,521	5.7	5.8	-37	-34
1040A.....	379,150	14,704	3.9	3.0	416,037	39,864	9.6	7.9	-59	-62
Taxpayer prepared:										
1040.....	511,655	42,768	8.4	7.9	588,793	75,300	12.8	12.6	-34	-37
1040A.....	1,763,564	103,608	5.9	4.9	1,692,337	225,582	13.3	12.6	-56	-61
VITA:										
1040.....	1,276	96	7.5	6.2	1,233	162	13.1	11.1	-43	-44
1040A.....	21,844	1,624	7.4	7.6	20,464	2,141	10.5	10.4	-30	-27
Total:										
1040.....	1,270,854	70,176	5.5	5.6	1,785,450	143,152	8.0	8.4	-31	-33
1040A.....	2,177,122	120,181	5.5	4.5	2,156,013	268,251	12.4	11.5	-56	-61

Source: Report of verification of IMF returns, NO-ACTS: T-125, current year returns only.

Senator HASKELL. I understand, Mr. Mihlbachler, that you have a statement? I'm sorry, I didn't mean to run on so long.

Mr. MIHLBACHLER. I have a statement, Senator.

Senator HASKELL. You can put your statement in the record if you wish and just summarize it.

Mr. MIHLBACHLER. Yes, thank you, Senator.

STATEMENT OF GERALD L. MIHLBACHLER, DIRECTOR, DENVER DISTRICT, INTERNAL REVENUE SERVICE

Mr. MIHLBACHLER. First of all, I want to thank you for working in our taxpayer service operation here in Colorado Springs yesterday.

Senator HASKELL. I enjoyed it and I found it very efficient and very helpful to the people who came in. I compliment you on your personnel.

Mr. MIHLBACHLER. Great. I also hope that you find the opportunity within the next couple of weeks of visiting our Denver office and seeing our telephone operation and our bigger service operation there.

I would like to just comment briefly on some of the things we do here in Colorado to help taxpayers to meet their filing obligations.

First of all, as Mr. Coppinger mentioned, we do have an extensive phone operation, telephone operation, where a taxpayer can call in. We answer questions in Denver for both the States of Wyoming and Colorado. Last year we answered over 400,000 calls from taxpayers. So far this year we've answered 178,000 calls and have been able to maintain a level of service of 90 percent. That means 90 percent of the people are getting to us immediately for their answer.

In our office operation for our walk-in taxpayers, we have offices in 11 areas throughout the State and they are open 8 to 4:45, 5 days a week, except the Durango office which is only open 1 day a week. We only have one person stationed in Durango, so he has other duties besides just taxpayer service. And this year because of the increased activity in the Craig, Colo., area, we've opened a temporary taxpayer assistance office in Craig, Colo.

I might also point out in consort with Mr. Coppinger's concerns about the bilingual requirements of this area, we have Spanish-speaking capacity in all but two of our offices, so we are very well equipped to handle inquiries from Hispanic taxpayers.

Last year we had 107,000 people visit our offices for services, to get a question answered, to get help with a tax return. We helped people prepare 20,000 returns and actually helped prepare in a 1-on-1 situation 4,200 returns last year. So far this year we've prepared 1,380 returns in a 1-on-1 situation to help people who are not otherwise capable of preparing their return.

Mr. Coppinger earlier mentioned our VITA program, and we have a very extensive VITA program here in Colorado. As a matter of fact, prior to the filing season we conducted 19 training classes to train 360 volunteers. These volunteers now operate out of 116 sites throughout the State of Colorado and that's 32 more than last year.

We are able to do this because of the increased funding we received this year from Congress and I do appreciate that and I'm sure the taxpayers of Colorado appreciate that. So far this year they've pre-

pared 2,255 returns which is more than they prepared in all of last year. So we're off to a very good start in that area.

The Colorado Society of CPA's here in Colorado operates a program quite similar to our VITA program and I believe Jack Anderson is going to testify later on about that program. Nevertheless, they've assisted over 400 families so far. In addition to their regular taxpayer assistance, along with volunteers from the IRS, they've provided service to 45 shut-ins, which I think is a very worthwhile cause.

We certainly haven't forgotten our younger citizens. About 345 high schools use our "Understanding Taxes" course and we've distributed over 50,000 course books to these high schools this past year. So we're getting our young students off to a good start, we hope.

We conduct small business clinics every Wednesday morning for new business persons. There's about a 2-hour program to help these people understand what their filing requirements are, what their tax obligations are, how to keep tax records. We've found it a very worthwhile endeavor.

To help the tax preparers in the State, we conducted 10 tax institutes last year in conjunction with Colorado State University and we had about 850 tax preparers attend those institutes. So we helped to keep them updated on the law which helps us immensely.

I would like to mention the one thing that we're real proud of in our taxpayer service operation this year—our quality control. As Mr. Coppinger points out, statistics and figures can prove almost anything, but based on our quality control system, we think we're providing accurate service 95 percent of the time this year and I think that's pretty good.

Mr. Coppinger mentioned our problem resolution office. We did establish a problem resolution officer that reports directly to me, about a year ago, and since that date we've handled 510 situations that otherwise seemed to be unresolvable through the normal IRS channels. I think this program is working quite well.

Incidentally, Mr. James Bond, our problem resolution officer and I just recently visited all seven of the congressional offices here in the State.

Senator HASKELL. Any relation to?

Mr. MIHLBACHLER. No, but we think it is quite appropriate that if you have a problem you can use the super sleuth to help uncover the possible solutions, and James Bond is having great success in doing that, and we do appreciate it. And yes, we do get a lot of mileage in using that coincidental connection in our various speeches and media releases.

I think we are off to a good filing season this year. As was pointed out earlier, the error rates are down, more people are preparing their own tax returns this year, and actually the demand for our services dropped by just a few percentage points, just a little bit down. I think that's attributable to the efforts of tax simplification and I do appreciate it and I think it really has helped.

One of the other things that I might mention since we're talking about a part of the appeals process—here in Colorado about 40 percent of the people who are audited do end up either with a no change or with a refund. So it is not always the other way.

Now, of the 60 percent who do have additional taxes proposed, 84 percent of those people do agree at the examiner level, with the assessment. I would agree that maybe some coercion or implied coercion or threats could occur, that people agree because they're afraid not to agree kind of thing, but of the people who don't agree at that level 56 percent of the people do in fact exercise their appeal rights. I am very pleased with the fact that of those cases, 77 percent are resolved at the district director's level we do resolve those in the district operation.

As Mr. Coppinger points out, we do go to quite extensive efforts to make people aware of their appeal processes early on. First of all, the letter we send the taxpayer asking him to call us for an appointment to do an audit advises the taxpayer about their appeal rights and also advises them that if this happens to be a repeat audit to let us know so that we can look into the situation.

Then once the taxpayer does come in for the interview or where we've gone onsite to do the audit, we advise the taxpayer again what the appeal rights are, and at that point present him or her with the publication we have on the appeals process.

And then finally, if the case is not resolved by the agent or the auditor, the case is reviewed by an independent third party. So we do have an independent review before going into the appeals process and we do reverse the agent or auditor at that level, when appropriate.

So I would agree we may have a need, and I would share Mr. Coppinger's concerns in this area, but we have also taken a number of steps to help the taxpayer.

Well Senator, I think that about concludes my opening remarks and I would be happy to answer questions, should you have any.

Senator HASKELL. I do.

Just one question, because we've got to move on to other people. Can you describe a little bit of your problems with so-called tax protesters? I'd like to hear your perspective on that.

Mr. MIHLBACHLER. Well, the tax protester movement has taken many different turns here within the State.

Several years ago we had a number of people who were filing returns where they were really just filing in their name and address and filing in constitutional rights in all the other blanks and showing a dollar amount for a refund at the end of the return.

Recently, they seem to have shifted more to claiming excessive exemptions when they file the W-4 with their employer and there are many who conveniently don't file a return at the end of the year.

Some have gone and formed what we might consider bogus churches or formed questionable religious activities, taken vows of poverty in trying to avoid the tax thing.

We just recently had a tax protestor convicted; Judge Winner recently sentenced him. I noticed in this morning's paper that he is now released on bond. We have eight or nine more cases with the U.S. attorney waiting on prosecution. We have six more cases currently in the review process. We have about 25 more cases that we're working on to make criminal cases against these tax protesters.

Now in addition to that, we have an extremely large number that we have determined probably don't merit criminal prosecution and we've already closed about 200 of those cases, and we have another

150 currently under audit. And in addition to that, we probably have in the neighborhood 1,000 different taxpayers who would appear to have claimed excessive exemptions on their W-4, and we're investigating those situations. So it is quite an extensive problem.

Senator HASKELL. I think really the tax protesters I was talking about are the people who are deliberately trying to gum up the system.

Mr. COPPINGER. Well, I think that's just what they're trying to do, Senator.

One of the things that I might add just briefly to go along with what Mr. Mihlbachler said on this, while the numbers aren't very large I think we have a great deal of concern for the taxpayer out on the street who is being misled by those who huckster these so-called constitutional or protest packages. They run seminars and they charge in the range from \$25 to \$30 to the people who attend the seminar. They provide them with a kit which is filled up with a bunch of—really, it's hogwash about the dollar not really being a dollar and therefore not subject to tax because of being off the gold standard.

Senator HASKELL. It sounds to me as if people are making a racket out of a racket.

Mr. COPPINGER. That's right. The other argument was that the tax laws are not constitutional because Ohio wasn't a State at the time it was ratified; they overlooked the fact that they had more States than they needed.

But anyway, they stand up before the audiences and they say, "Look at me, I haven't been touched." And yet some of them have been convicted of tax evasion. So they're misleading a lot of people.

Senator HASKELL. I just wanted to get the status of this situation.

Well, gentlemen, we have to go on to the other witnesses. I want to thank all of you for appearing and I will look forward to seeing your submissions for the record.

Mr. COPPINGER. Thank you.

Mr. MIHLBACHLER. Thank you, Senator.

[The prepared statement of Mr. Mihlbachler follows:]

STATEMENT OF GERALD L. MIHLBACHLER

I am pleased to have the opportunity of discussing with you today the operations of the Denver District, with particular emphasis on our assistance to the public. Very briefly, I would like to tell you what we are doing to assist individuals and small business taxpayers in meeting their tax reporting obligations. There are many aspects to this assistance as we try to provide the best service possible to a wide range of taxpayers under a variety of conditions. This assistance varies from broad programs helping large numbers of individuals to answering specific questions involving a specific taxpayer. First, I would like to discuss our overall assistance programs, then cover specific examples of each.

For most people, the Internal Revenue Service is a large, rather impersonal organization with whom they have a rather brief experience each year, beginning with the delivery of their tax form package and ending with mailing their completed tax return. Except for this rather short period, most people have a feeling of, "out of sight, out of mind." However, during the time they are thinking about their taxes and filling out their returns, their need for assistance can be great.

Of the five divisions in the Denver District, the one with which most individuals have contact is the Taxpayer Service Division. This Division is responsible for providing service to the public on a year-round basis, answering questions, assisting in the preparation of tax returns, disseminating information on tax-law changes, and distributing forms, schedules and information

pamphlets. While we stress self-help methods for assisting taxpayers with their returns, we do actually prepare returns for individuals who are unable to prepare their own return due to physical handicap or their literacy level. Our Taxpayer Service Division has a staff of 33 permanent employees and approximately 35 seasonal employees. We provide year-round walk-in service at 11 locations in the State and a toll-free telephone service, both of which are in operation five days a week to provide the various services.

These services and assistance are broken down into three major categories. The first is in providing telephone assistance; the second is in personal contact with taxpayers who visit our offices; and third, instructing various groups in tax law and the preparation of returns through taxpayer education efforts.

Telephone service.—Telephone inquiries for Colorado and Wyoming are answered at our toll-free site located in our Denver headquarters office. The system uses a high of 64 lines during the peak of the filing season with a low of 20 lines during the low cycles of the non-filing season. Telephone service is available year-round, Monday through Friday, from 8:00 a.m. to 4:45 p.m. During the final days of the filing season, the hours are extended as necessary. This year, we are planning to experiment with also having our telephone system open for four hours on Sunday afternoon, April 16. The employees providing the toll-free telephone service receive specialized training each year prior to the beginning of the filing season as well as additional training, as needed, throughout the filing season. We also use technical employees from other divisions in the District to handle special areas and complex questions that cannot be handled by the front-line assistor. Naturally, some questions cannot be answered immediately. In these cases, questions are turned over to specialists for resolution and the taxpayers are called back within a reasonable length of time. Our goal is to make 97 percent of these call-backs within 24 hours and the remainder within five days; so far this year, we have been able to accomplish this objective. In the fiscal year ending September 30, 1977, our toll-free site answered about 400,000 telephone calls. So far this season, we have answered about 173,000 telephone calls (January 1, 1978 through March 17, 1978). We have maintained a 90 percent level of service thus far this season and a 95 percent accuracy rate. Through our quality review and monitoring procedures, we are ultimately aiming to get our accuracy rate as high as possible.

Office assistance.—Walk-in assistance is available at 11 offices in Colorado—four in Denver and one each in Colorado Springs, Greeley, Ft. Collins, Boulder, Pueblo, Grand Junction and Durango. Year-round assistance in each is available from 8:00 a.m. until 4:45 p.m., Monday through Friday, with the exception of Durango which is open one day a week during the filing season and one day a month during the rest of the year. This filing season, we are also providing service four days a month in Craig. Employees in this function also receive extensive training prior to and during the filing season and have a contact point similar to our telephone operation to whom they can refer difficult questions. These employees also assist in the preparation of tax returns and distribution of various tax forms, schedules and publications to further assist taxpayers. When the situation demands, these assistants actually prepare returns for taxpayers. In the fiscal year ending September 30, 1977, we assisted about 107,000 taxpayers who visited our offices, including 20,000 in the preparation of tax returns. 4200 of those returns were prepared in a one-to-one situation. So far this season, we have assisted 50,000 taxpayers who have visited our offices. During our peak week in headquarters this season, the average wait was 21.7 minutes for assistance in the preparation of returns and 9.7 minutes for questions. We do not keep statistics on wait times in our satellite and post of duty offices, but it would generally be less than at the headquarters office except for unusual situations.

In conjunction with our telephone and office services, we have a data retrieval system (IDRS) available to both our telephone and walk-in assistants in Denver and Colorado Springs that is connected directly to computers in the Ogden Service Center, enabling them to have immediate and current information on the status of a taxpayer's account. Assistors in other offices can call the headquarters office to get access to necessary information. The availability of this data retrieval system is exceptionally important at this time of the year when taxpayers begin to make inquiries about the status of their refunds.

Taxpayer education.—This is a program which was initiated to provide additional services for taxpayers. The Taxpayer Education Program is designed to disseminate information about the various aspects of tax law to a variety of

groups and organizations and to educate and train others who are interested in organizing and establishing tax services. The more important taxpayer education and special assistance efforts are as follows:

The Volunteer Income Tax Assistance Program (VITA) is one of our most important programs. Volunteers from civic and community groups are trained by IRS personnel to provide free tax assistance to the elderly, low income, handicapped and non-English speaking taxpayers. Several National organizations, such as the American Association of Retired Persons (AARP), Retired Senior Volunteer Program (RSVP), National Retired People's Association, National Association of Retired Federal Employees and a number of local community organizations are involved in this program and provide valuable assistance. Prior to the present filing season, we conducted 19 VITA classes, training 360 volunteers. As a result of this, 116 VITA sites are in operation this year, 32 more than last year. This 40 percent increase has been accomplished through additional funding provided for this purpose. VITA sites are visited on a periodic basis by our employees to provide technical assistance and help with any administrative problems that come up. The VITA Centers are instructed to send returns prepared by them to the District Office for review before forwarding them to the Service Center for processing; however, not all Centers do this consistently.

So far (as of March 17), VITA Centers have prepared 2255 returns, which is more than they prepared during the entire filing season in 1977. The Colorado Society of Certified Public Accountants operates a program similar to VITA, using volunteer CPA's, accounting students and some IRS employees. They have 24 sites where they have assisted over 400 low income and elderly families, representing nearly 2000 individuals in the preparation of their tax returns. Also, to date they have provided service to about 45 shut-ins.

As a result of our efforts, seven newspapers in the State published tax supplements this year. These supplements provide detailed information on specific tax questions as well as changes in tax laws and other valuable tax tips. These same newspapers handed out nearly 2000 copies of "Your Federal Income Tax" to their subscribers.

A high school level tax course, "Understanding Taxes," is in operation in Colorado. Over 50,000 student coursebooks have been distributed to 345 schools this year.

Tax institutes for preparers are conducted each year in cooperation with Colorado State University. These institutes are designed to acquaint preparers with new laws and regulations and to cover areas where additional instruction and communication is necessary with IRS to improve compliance. Last year, we conducted ten institutes throughout the State attended by 843 preparers. In addition, several speaking engagements have been accepted with practitioner groups and we have periodic liaison meetings with representatives from Colorado Bar Association, Colorado Society of CPA's, Public Accountant's Association and the Enrolled Agents.

In the small business area, the District sponsors Small Business Tax clinics throughout the year. New business persons receive instructions relative to their tax requirements. A question and answer period follows these clinics so that we may assist with specific problems.

The Earned Income Credit Program, aimed at low income individuals, is publicized through the assistance of various State of Colorado agencies and the U. S. Post Office. Approximately 114,000 Earned Income Credit stuffers, both in English and Spanish, were mailed to individuals by the State of Colorado and posters were distributed to Post Offices. This program has been publicized throughout the State in the news media and is a part of speeches and media interviews.

We provide space in our headquarters office in Denver for the Colorado Department of Revenue so that tax assistance is available for both Federal and State returns.

I could go on with additional specifics but I believe these examples amply describe some of our most worthwhile activities.

Providing accurate answers to a variety of tax questions that will arise is a difficult and complex assignment. In this regard, we spent 15 percent of our taxpayer assistance time training our employees and two percent monitoring the quality and accuracy of our work in FY 1977. Employees involved in taxpayer service receive eight weeks of training in their first year and a one-week refresher course each year thereafter. In addition, we normally have weekly seminars for our employees to train them in areas that are identified during

our quality reviews. As a result of our quality control efforts, we are currently providing error free service 95 percent of the time in our telephone operation, 94 percent on 1040 preparation and 98 percent on 1040A.

In addition to the above training and quality reviews, we also appoint taxpayer service specialists, tax auditors, and revenue agents to answer the more complex questions and to provide back-up service to our front line assistants on referrals. When front line assistants are not completely certain they have the correct answer to the taxpayer's question, they are instructed to refer these questions to the technical back-up group.

Demand for our services is usually heaviest on Mondays and constitutes approximately 25 percent of weekly totals. Demand for taxpayer service is not consistent throughout the filing period. Our peak workload is usually the last week in January and the first week in February—just after the W-2's have been issued by employers—and the last week or two before April 15. At the District level, plans for the filing period begin nearly a year in advance and of necessity most of our training must take place during the October through December period. Late passage of tax laws, such as the 1976 Tax Reform Act, causes serious problems to the public and to our efforts to provide adequate and accurate service.

Statistics for the filing season, so far, indicate some interesting trends for Colorado taxpayers. The overall error rate is lower than last year. Also, the 1040/1040A filing mix is changing.

1040/1040A MATH ERROR RATE BY CATEGORY OF PREPARER

[In percent]

Preparer	1040			1040A		
	Jan. 1, 1977 to Apr. 30, 1977	Jan. 1, 1977 to Feb. 26, 1977	Jan. 1, 1978 to Feb. 25, 1978	Jan. 1, 1978 Apr. to 30, 1977	Jan. 1, 1977 to Feb. 26, 1977	Jan. 1, 1978 to Feb. 25, 1978
IRS.....	2.3	1.4	0	0.6	1.1	1.4
VITA.....	10.9	5.1	4.2	7.8	3.5	5.1
Third party.....	5.0	5.2	3.3	5.7	6.5	2.3
Other (including taxpayers).....	13.1	11.4	7.3	13.0	3.5	4.5
Overall.....	7.5	7.8	5.3	11.3	4.1	4.2

1040/1040A FILING MIX—COLORADO

[In percent]

	1040	1040A
Jan. 1, 1977 to Feb. 26, 1977.....	48	52
Jan. 1, 1978 to Feb. 25, 1978.....	44	56

Also significant—86 percent of the 1040A filers prepared their own returns this year as compared to 81 percent for the same period last year and 48 percent of the 1040 filers have prepared their own returns so far this year as compared to 43 percent the same period last year.

1040/1040A PREPARER BY PERCENT OF RETURNS PREPARED DATA

Preparer	1040			1040A		
	Jan. 1, 1977 to Dec. 31, 1977	Jan. 1, 1977 to Feb. 26, 1977	Jan. 1, 1978 to Feb. 25, 1978	Jan. 1, 1977 to Dec. 31, 1977	Jan. 1, 1977 to Feb. 26, 1977	Jan. 1, 1978 to Feb. 25, 1978
IRS.....	0.1	0.1	0.2	1.2	0.8	0.4
VITA.....	.1	.1	.1	.2	.1	.1
Third party.....	69.4	56.5	51.2	21.4	18.4	13.2
Other (including taxpayers).....	30.4	43.4	48.5	77.2	80.8	86.3

Table below shows a slight decrease in the number of people seeking assistance from IRS in Colorado. The 13 percent decrease in walk-in assistance is an indication to us that the simplification of tax forms has enabled more taxpayers to fill out their returns with less assistance. While the data is only for the first two months of the filing period, the 40 percent decline in direct preparation further indicates that the simplification efforts and our various taxpayer service programs—particularly our VITA Program—are paying off.

TAXPAYERS ASSISTED TELEPHONE AND WALK-IN ACTIVITIES

	January- February 1977	January- February 1978	Percent change from prior year
1. Telephone assistance (total).....	139,171	137,149	-1.5
a. Toll-free telephone system:			
Attempted calls.....	175,320	160,875	-9.0
Calls answered.....	135,154	135,790	+0.5
Level of service (percent).....	77	90	+16.9
b. Posts-of-duty and satellite offices.....	4,017	1,359	-66.2
2. Walk-in assistance (total).....	39,361	34,274	-12.9
a. Questions.....	29,193	27,444	-6.0
b. Return assistance:			
Self-help.....	7,737	5,450	-29.6
Direct preparation.....	2,431	1,380	-43.2
c. Percent of walk-in taxpayers receiving return assistance.....	25.8	19.9	-22.9
3. Total taxpayers assisted (phone/walk-in).....	178,532	171,423	-4.0
4. Ratio of telephone taxpayers assisted and walk-in taxpayers assisted..	3.5-1	4-1	+14.3

The 1976 Tax Reform Act gave IRS additional provisions to strengthen the law and regulations relative to commercial preparers of tax returns. This legislation provides additional protection to taxpayers by imposing penalties on preparers for failure to properly identify themselves as preparers on returns and for any negligent or wilful disregard of the Internal Revenue Code and Regulations in preparation of the return. In addition to the penalties, this legislation also provides the District Director with the authority to seek an injunction to enjoin unethical or incompetent tax preparers from preparing returns. We currently have several situations developing in this District that apparently will result in my exercising this authority. During the past two years, we have made extensive efforts to publicize these new provisions with both tax practitioners and the general public.

Next I would like to discuss our Problem Resolution Program which was implemented in the Denver District last spring. We realize that not all taxpayers will receive a satisfactory resolution to their problems and concerns when dealing through regular channels. For this reason, the Problem Resolution Office, directly under my supervision, was established. With this procedure, a taxpayer who needs special assistance with an unresolved problem can deal directly with the Problem Resolution Office rather than one or more organizational functions in the District or Service Center. The object of this program is again to provide a high level of service to taxpayers. Since the inception of the program, we have handled 522 cases. The Problem Resolution Program has been publicized by radio, television and newspaper releases. It is highlighted in all speeches given in the District. It has also been covered in our practitioner newsletter which reaches 3,500 practitioners in Colorado. Since the inception of the Problem Resolution Procedure, I wrote all the congressional offices in Colorado to advise them of the new procedures and, in addition quite recently, I and the Problem Resolution Officer made a personal visit to 7 of the congressional offices here in Colorado and met with the administrative aides that work with Internal Revenue Service. The Problem Resolution Office is identified in all new Colorado telephone directories as "Problem Resolution Office, Special Assistant to the Director." We have posters advertising this service in all our offices.

We have a Penalty Appeals Office, providing another level of administrative appeal when a taxpayer has been assessed a penalty by the Service Center or Collection Division. When taxpayers do not agree with an assessed penalty and request abatement of the penalty, they are advised of their appeal rights if

the abatement request is denied. In the case of a penalty assessment by the Service Center, the written notice advising that the request for abatement has been denied includes the name, address and phone number of the District Penalty Appeals Office and advises the taxpayer of their appeal rights. In the District, if the abatement appeal is denied, revenue officers, revenue representatives and collection representatives advise the taxpayer of their appeal rights and how to contact the Penalty Appeals Office. Since the inception of the program, 102 appeals for abatement have been received. The Penalty Appeals Officer, like audit division conferees, has settlement authority up to \$2500. For the convenience of taxpayers, the Penalty Appeals Officer conducts hearings at various locations in the State.

Last year, the Denver District examined about 20,000 individual returns, which is about two percent of the individual returns filed in the District. Our initial letter to a taxpayer scheduling the examination of the return sets forth both their appeal procedures and the procedures to follow if a repetitive audit is involved. In addition, revenue agents and tax auditors are instructed to explain the appeal rights to the taxpayer prior to the beginning of the examination. In our audits last year, about 60 percent had additional tax proposed and, of that number, 84 percent of the taxpayers agreed with the findings at the examiner level. Of those who did not agree with the proposed addition to their tax liability, 56 percent exercised their appeal rights. While a number of these cases are still in the appeal process, we are confident, based on prior experience, that all but a few will be concluded without litigation. Several articles appeared in newspapers in the State last year explaining the audit process and this subject is also stressed in many media interviews and personal appearances by District employees.

I will be happy to answer any questions you have.

Senator HASKELL. Our next witness is Robert J. Dulsky, president, Tax Corp. of America.

You can do whichever you want, submit your statement for the record and talk or—

Mr. DULSKY. I would like to do that, Senator.

Senator HASKELL. Fine.

STATEMENT OF ROBERT J. DULSKY, PRESIDENT, TAX CORPORATION OF AMERICA

Mr. DULSKY. Mr. Chairman, my name is Robert J. Dulsky and I appear here today as president of Tax Corp. of America, the Nation's second largest tax preparation company.

I would like to submit for the record our formal statement.

Senator HASKELL. It will be reproduced in full.

Mr. DULSKY. And, just to discuss with you briefly some of the subjects in it; I'd like to attack the things that you mentioned in your opening statement which was the reason for the hearing to find out the impact of the new act on the filing process, whether it has been improved, whether the zero bracket amount, to quote you, is a blessing or a burden et cetera. So, if I could go into that, if I might.

Let me give you just a little bit of background about who we are and what we represent to give you a better perspective on my comments.

We're a publicly held company engaged in the preparation of State and Federal income tax returns as well as providing other personal financial services direct to the American public. This year we project that we will prepare over 300,000 tax returns of which 80 percent will be 1040's with itemized deductions. And I noticed from the statistics that Mr. Coppinger provided that of the 1040's prepared

in his region, 60 percent were third-party prepared and I think if you'll look at the itemized deductions among those 1040's the percentage would go much higher, closer to our 80 or 90 percent perhaps even.

Thus, while we serve taxpayers whose income covers a very broad spectrum, from the very low to the very highest, a great majority of our clients' income is between \$10,000 and \$30,000 a year. So I guess what everybody finally refers to as Mr. and Mrs. Average Taxpayer or Mr. and Mrs. Middle America or whatever you like.

Based on our experience with these taxpayers, as well as discussions with colleagues et cetera, we do believe that the new act did benefit those taxpayers able to file the short form and the statistics the IRS has put out about the increase in the number of 1040A's and the lessening of the errors on it, I think, bears that out.

Also, the raising of what used to be the old standard deduction from a range of \$2,100 to \$2,800 to \$3,200 for married couples who cannot itemize has not only been a simplification, I think, but more importantly a tax reduction for one of the few times in our history.

For single people, however, where the range was \$1,700 to \$2,400, the new zero bracket amount of \$2,200 can be either a reduction in taxes or an increase in taxes.

But for the great majority of middle Americans, the people I'm talking about, I believe there has been little change in the complexity of the tax preparation process and no tax reduction, and let me just clarify that.

For a person who owns his own home—the American dream of owning your own home—even a fairly modest home purchased in recent times, and I guess modest homes are a lot different than they used to be, the interest payments on your first mortgage and your property taxes are much likely to get you over either the \$3,200 zero bracket amount or the \$2,200 zero bracket amount, depending upon whether you're married or single. And for this person, therefore, an itemized deduction return is much more beneficial. And for them to take full advantage of this return requires a tremendous knowledge of the tax laws and we can't really expect the average American, given the complexity of the law, to do this.

I would also like to point out—Mr. Coppinger touched on it—the jargon used this year, it was really not conducive to convince people that the preparation of their return has been simplified.

I don't know who came up with zero bracket amount—I guess we should like it because it keeps companies like ours in business—but the term standard deduction is something I think anybody can understand it and as a meaning outside of the tax system, it's fairly simple words.

The term zero bracket amount has caused tremendous amount of confusion among our clients, among the general public. I've appeared on several radio and TV shows this year and there are a tremendous amount of call-in questions, just the words zero bracket amount is enough to make a lot of taxpayers decide not even to mess with their tax returns this year.

Also another subject that was touched upon that was helpful, of course, is the change in the tables this year, putting in the personal

exemptions and the general tax credit in the table, I think, really has been an important step for simplification, although I think we have an interesting anomaly. Up through 1975, we had a number of tables based on the number of exemptions and we decided the multiplicity of tables was causing a number of errors by taxpayers. So in 1976 we reduced ourselves to one table, if you remember, but you had to make so many calculations to get down to the table that that increased the number of errors, which I think is one of the reasons we're seeing a decrease in the error rate this year over last because there were a number of multiplications and other mathematical calculations to be made to get down to one table last year.

Well, here we are back to where we were in 1975 where again we have a multiplicity of tables, although as I mentioned earlier, there is more built into the tables so I think they are more simple.

So overall I'd say for the nonitemizing taxpayer, the changes have been beneficial. Although, as Mr. Coppinger also remarked, the change every year for the taxpayer is a little unsettling. Most taxpayers who do their own returns or try to or even have it prepared outside one year so they can do it the next year or the ensuing years themselves, they go back to the previous years' returns. And if you go back to the previous year's return this year, you're guaranteed to be very happily surprised thinking you're getting a big refund until you realize you've made a lot of errors.

I think the fact of having changes in the forms every year, even though they may be simple in some cases, leads to a feeling of uncertainty amongst the general public.

Senator HASKELL. Then you would agree with Mr. Coppinger that we ought to try to get some simplified version and stick with it.

Mr. DULSKY. Right. But I also agree with him that when you do have glaring errors and glaring problems in the form that it is more important to change that.

Again, let me get back to my thesis that the taxpayer who itemizes his deductions has not received much help from the Government and it is this group of taxpayers which rely heavily on the commercial preparers. They are uncertain as to which deductions they're entitled to and I believe that we provide them the security which these taxpayers demand; namely, that they have received the benefit of all legitimate deductions and are paying no more than their fair share.

While the IRS has taxpayer assistance programs, our experience is that the personnel staffing these programs are not conversant with many of the problems faced by taxpayers and as has been previously discussed, they are not instructed to go into a lot of the details but merely are there to answer questions, which I think is appropriate. Our job is to dig with the taxpayer and make sure we find all the deductions to which they're entitled.

Senator HASKELL. Now just one second. I was out at the Colorado Springs office yesterday and I noticed that the ladies and gentlemen did do some asking of questions. Are you suggesting that they don't do enough of it; is that it?

Mr. DULSKY. No. I'm suggesting that certainly on the question that is brought to them, the subject that is being brought up for discussion, they do ask questions to make sure that they have all

the ramifications like the moving expense question Mr. Coppinger brought up. But they don't dig into all aspects of the taxpayer's financial situation to determine all the deductions to which they're entitled unless they're specifically brought up, and I am not sure that that is a proper or useful part of their assistance, certainly not over the telephone. It would be very difficult with the telephone answering assistance program.

Senator HASKELL. There were two people who came in yesterday with returns to be prepared. The lady who was talking to them seemed to ask quite a few questions. But your view is that when people come in to the IRS for preparation of returns, as some people do and as I think it is perfectly proper for midincome to do, you're suggesting that the IRS doesn't ask enough questions to develop possible deductions; is that it?

Mr. DULSKY. Yes. Also I am suggesting that again the market which we serve, the itemized-deduction filer, is not likely to walk into the office. Rightly or wrongly, I think there is a little fear in going to the IRS office. It's like the chicken walking along with the fox type of syndrome.

Senator HASKELL. This is something we would like to dispel. Go ahead.

Mr. DULSKY. Well, I think regardless of how well the IRS does, I think it is a very difficult thing to overcome. I don't think it is a criticism of the Service, I think it is just a fact of life that American taxpayers are leary of bureaucracy of any kind and it is hard to believe the Government is going to help you pay less taxes even though I'm sure that's their intention.

Another service that we provide both to the taxpayer and the IRS is to make sure the returns we prepare are mathematically correct and that the taxpayers do not take deductions to which they think they ought to be entitled but which in fact by law they're not. And I think we're a major help in making our tax system work.

One of the things we always forget is that ours is the only self-assessing tax system in the world that even works at all, and I think that's a tribute to the American people.

The present mood, as you brought out, seems to be to urge both equity and simplification. I am not at all convinced that these concepts are consistent with each other. Obviously, the greatest simplicity is accomplished by doing away with all deductions, exemptions, and credits, and imposing a tax on gross income which has been proposed ons of times.

Indeed, every survey which has been taken indicates that such an idea would have very little appeal to what we call the average taxpayer. In fact, while they agree with the popular rhetoric that all loopholes for the rich must be closed, they continue to favor new deductions and new credits which fit their own economic situation.

I think Congress has made great strides in recent years in closing what has deemed to be noneconomic and nonproductive tax loopholes such as the closing of various tax shelter programs, and introducing concepts such as the minimum tax to insure that most Americans do contribute.

I read somewhere one statistic that if the Government confiscated all income over \$32,000 a year, it would add approximately only 3 percent to the Treasury's coffer. And since we've already changed our tax law so that the poor do not pay any tax or very little, that leads us to the inescapable conclusion that middle America bears the greatest burden in our income tax system. They know it, resent it, and will continually seek help to make sure they are paying only their fair share.

And I think there's an increasing desire on the part of Congress and the public to attack many social problems and to manage our economy through the income tax system which is the root cause of all the complexity. As long as this approach prevails, and I don't think it will change, no matter what its merits, no real simplification can be held. And without other than what I call minor tinkering, if there is no real simplification then there is going to be the requirement for services such as our company provides.

I would like to turn my attention briefly to two other subjects, one of which you did address with Mr. Coppinger. The first subject which you mentioned briefly in regard to the elderly would be the staggering of filing dates. I think this is a subject that has been brought up many times in the past and frankly I think it is a subject that ought to get a little closer attention in Congress. I think staggered filing dates would reduce a lot of the problems inherent in our system, reduce the collection costs the IRS has for staffing up for peak periods, and I think it would make the taxpayer assistance program provided by the IRS better and, of course, I think it would allow us to provide better service.

The most common criticism is that it is a major change and would cause confusion. I think there is always some sort of confusion when you make major changes. I don't think it would cause a great loss of revenue to the Treasury, a great number of Americans get refunds anyway, and I think it could be implemented so that the impact upon the Treasury in cash collection would not be great.

Finally, I would like to discuss a problem connected with IRS audits which you went into detail earlier with Mr. Coppinger.

The prevailing view of Treasury, as expressed in Treasury circular 230, is that a commercial tax return preparer may not represent the taxpayer for whom it prepared the return, on audit. The preparer is permitted to accompany the taxpayer to a conference to explain the method followed in preparing the return.

Under this Treasury Circular, attorneys, CPA's and enrolled agents are entitled to represent taxpayers before the IRS. Enrolled agents are individuals who have passed the exam prepared by the Treasury.

Senator HASKELL. Couldn't you folks take that exam?

Mr. DULSKY. Yes; we could, but an enrolled agent employed by a commercial preparer, that person is precluded from representing taxpayers whose return was prepared by their employer.

Senator HASKELL. Even if you take the test and pass the test?

Mr. DULSKY. Yes, sir, under circular 230. The basis for this position, as I understand it, the commercial preparers are permitted to and do advertise and that since attorneys and CPA's are prohibited

from advertising, the enrolled agents should not have such an advantage.

Now, we agree that the Treasury Department—

Senator HASKELL. Let me interrupt you.

Just for the record, I am asking Mr. Coppinger this question. Would you agree with Mr. Dulsky that if he prepared a return as a tax preparer, and then took the enrolled agents examination and passed it, even under those circumstances he would not be able to represent the taxpayer on audit whose return he had prepared?

Mr. COPPINGER. If he takes the exam and passes it for the enrolled agent, he can represent the taxpayer as long as he meets the conditions and rules an enrolled agent is bound by and one of the prohibitions is that they cannot advertise. If they advertise, then they cannot represent the taxpayer; right?

Mr. DULSKY. That's right.

Senator HASKELL. Is that correct?

Mr. RILEY. I think that's correct.

Mr. COPPINGER. I guess there is also a conflict-of-interest question.

Mr. RILEY. There is a potentiality of a conflict-of-interest situation with an employee of the preparer representing the taxpayer. If, for example, in the preparation of the return some mistake was made, the employee of the preparer, is he representing the preparer to cover the mistake or is he representing the taxpayer.

Senator HASKELL. Gentlemen, this is not a time to go into this in length, but let me tell you my view.

My view is that an employee of an accounting firm or an employee of a law firm who prepared a return is in exactly the same position as a commercial preparer. In light of the recent Supreme Court decisions holding that lawyers and accountants can advertise, it seems to me that if commercial preparers pass the enrolled agents' exam, they should be able to represent their clients on audit.

Mr. COPPINGER. Senator, I would add that in view of the change in law in the Justice Department's position on advertising in both the accounting and legal professions that I suspect the rule that he referred to will be changed.

Senator HASKELL. Will be changed; fine.

Mr. DULSKY. So far, Senator, we have been unsuccessful in getting it changed, the Treasury Department in Washington to reconsider this. And the Justice Department did put in a brief regarding this as a result of the Supreme Court hearing.

We do not ask to advertise that we have enrolled agents employed by us or that we are enrolled agents.

Senator HASKELL. You would have no objection to taking the exam?

Mr. DULSKY. No.

All we ask is the right to represent our client, to be able to stand behind our work. As I said, we'll prepare over 300,000 returns this year, about 10,000 in Colorado. We'll have about 8,000 audits this year of our clients and we would like to be able to provide them assistance so that they don't have to do the things that Mr. Coppinger talked about, they don't have to take a day off from work, they do

not have to—because of the process, being so scared about it—just assent to the IRS's proposed adjustments.

Also, I think it would lessen the IRS's workload because we could come in in 1 day and take about 8 or 10 and get them all done.

Senator HASKELL. Now, just a couple of questions because time is moving on.

First I am going to ask you for the record to do that which I asked Mr. Coppinger to do. Can you give me for the record a list of the sections of the code which cause the greatest difficulties from the complexity viewpoint, which touch a mass of people. What we're talking about today is how to simplify, if possible, for a large number of people.

[The material referred to follows:]



ROBERT J. DULSKY
PRESIDENT

April 11, 1978

Honorable Floyd K. Haskell
452 Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Haskell:

I appreciate the courtesy that you extended in allowing me to present the views of Tax Corporation of America regarding the effect on the taxpaying public of the Tax Reduction and Simplification Act of 1977. At your request I am enclosing a list of those sections of the Code not already identified in your bill which cause the greatest complexity to taxpayers. In addition, where appropriate I have included comments regarding suggestions for possible simplification. We would be very happy to elaborate on any of these points should you wish.

You also requested that we comment to you regarding the so-called "marriage penalty". There is no question that there is a "marriage penalty" for those couples where both spouses are working and are making approximately the same amount of money. What is more usual, however, is that one spouse makes considerably more than the other. In this case, if indeed they did file as single individuals, they would experience no "marriage penalty" but a "marriage advantage". In fact, the comments we most often hear from our clients come not from those married couples where there is a "marriage penalty" but from those single individuals who claim to be treated unfairly compared to marrieds. Whether the trend is good or bad, it is indisputable that there is an ever-increasing number of single head of households in this country and therefore, we feel the complaint of the single individual being discriminated against by the tax tables is a much more often heard situation.

At the suggestion of your staff I will have a brief document delivered to you very soon outlining concerns regarding Circular 230 which I briefly touched upon in my testimony and which you very correctly perceived as an injustice to the American taxpayer. We will be very willing to discuss this matter in more detail as you or your staff desire.

TAX CORPORATION OF AMERICA

2441 HONOLULU AVENUE · MONTROSE, CALIFORNIA 91020 · (619) 245-8843

Again, I appreciate the opportunity to present our views to you and hope we were able to give you a better perspective of how the American taxpayer views the latest rules and regulations.

Very truly yours,

TAX CORPORATION OF AMERICA

A handwritten signature in black ink, appearing to read "Robert J. Dulsky". The signature is written in a cursive style with a large, prominent "R" and "D".

Robert J. Dulsky
President

RJD/lg
Enclosure (as mentioned)

ENCLOSURE1. INCOME AVERAGING

The income averaging form has always been unnecessarily complex. We at TCA have developed our own income averaging form, which is relatively easy to follow and is one of the proprietary products that our counselors use, although the computer translates the final information onto the government forms as required. In addition, the introduction of the "zero bracket amount" and requiring it to be translated back into previous years in calculating whether a taxpayer is eligible for income averaging is another unnecessary complication, so that the Schedule G is even more complicated this year.

2. CREDIT FOR THE ELDERLY

This not only is an overly-complicated form but as was brought out in your hearing, the only reason it is not so great a problem this year is because the way the tax is set up, there are very few people who are eligible. However, we suspect that if more people were in fact eligible, it would cause a considerable problem and more importantly, might be missed by many.

3. SCHEDULE D - 10-YEAR AVERAGING FORMS - LUMP SUM DISTRIBUTION REQUIREMENTS

With the advent of the Pension Reform Act of 1974 many company pension or profit sharing plans have been disbanded and are distributing the proceeds to their plan participants. There is very little information available among taxpayers in general regarding the ability to roll this over into an IRA and normally we don't find out about it until after the 60-day roll over period has elapsed. In addition, accounting for these proceeds through either the 10-year averaging method or the lump sum distribution or other ways is unnecessarily complicated, especially considering that many very average income earners are receiving these kinds of distributions.

Many of the other more complicated concepts such as minimum and maximum tax, alternative tax, sale of business assets, and net operating loss carry forwards, are of necessity complex due to the law. However, generally, we find that people who have these kinds of complications are the people that would normally go to a sophisticated tax preparer in the first place, and are probably not areas worth your Committee delving into.

Again, may I reiterate my earlier testimony that overall the forms are as reasonable as possible, considering that we have an extremely complex income tax system and the goal of forms simplification while worthwhile is a very difficult item to achieve without a major change in our method of taxation.

Senator HASKELL. Now for the record, I would just like to ask you a few questions about your company so that we may get a better picture of a tax preparer company.

In the first place, are you a public company?

Mr. DULSKY. Yes, we are, sir.

Senator HASKELL. You are listed on what exchange?

Mr. DULSKY. We are listed on the NASDAQ over-the-counter exchange.

Senator HASKELL. You're on the over-the-counter exchange so you're subject to registration with the SEC?

Mr. DULSKY. Yes, sir. We're an SEC 12G reporting company.

Senator HASKELL. I see. Well, then undoubtedly from that form we could get a lot of information.

In how many States are you qualified to do business?

Mr. DULSKY. Well, we're qualified to do business in 48 States. We actually operate in approximately 40 States right now.

Senator HASKELL. How long have you been in business?

Mr. DULSKY. The tax preparation division has been in business for 32 years.

Senator HASKELL. Who are the large firms in the business? Obviously, H&R Block is the largest and you say you're the second largest. Who are the other large ones?

Mr. DULSKY. Other large firms are really subsidiaries of other financial organizations. I believe the third largest would probably be the Beneficial organization through their finance arm.

There are very few that actually operate interstate commerce. Most of them are local even if they have multiple offices. Most of them are fairly local.

Senator HASKELL. Basically Block and you are the only ones which operate interstate?

Mr. DULSKY. Beneficial operates interstate and some of the other finance companies through their offices also operate interstate commerce.

Senator HASKELL. What is the basis for the charges preparers make, for instance your company?

Mr. DULSKY. To give you an example, our fee, average fee this year for an itemized—as I said, 80 percent of our returns will be itemized deductions returns—will be about \$39 for the Federal and State return. We charge strictly based on the complexity of the return and the number of schedules required. We have no basis on the amount of money a person makes, the size of the refund, it's strictly on the complexity of the return, the number of schedules and how complex.

Senator HASKELL. Basically on a time basis?

Mr. DULSKY. Well, it's partly time because complexity and time are pretty well correlated.

Senator HASKELL. Right.

Is this true of the major preparers, this same method of charging?

Mr. DULSKY. I think that is true, yes, sir.

Senator HASKELL. This is perhaps irrelevant to some of our discussion, but one of the big problems is the so-called marriage penalty which exists because we have four separate tables. I would like to get your views as to whether it would be possible to solve the problem by

a single table. Now, that has a lot of ramifications but I would like to get your views for the record, unless you'd like to talk about it now.

Mr. DULSKY. No; but I would like to add one comment, though. We hear most of the complaints from single people rather than the other way around.

Senator HASKELL. That's one of the problems, as to whether you can make it equitable all the way around.

Mr. DULSKY. Right.

Senator HASKELL. I appreciate your being here and I think you've added considerably to the hearing. I will look forward to that list of sections which you think could be simplified. If you have any suggestions on how to do it, I'm sure the Internal Revenue Service would like them and I know I would like them.

Mr. DULSKY. Thank you, Senator, it has been a pleasure to be here.

Senator HASKELL. I appreciate it.

[The prepared statement of Mr. Dulsky follows:]

STATEMENT OF ROBERT J. DULSKY

Mr. Chairman: My name is Robert J. Dulsky and I appear here today as President of Tax Corporation of America, the nation's second largest income tax preparation company. We appreciate this opportunity to discuss with you some of the problems faced by taxpayers in making out their income tax returns as well as to suggest areas in which we believe that commercial tax returns preparers can be of greater assistance to their clients as well as to the Government.

Thus, while we serve taxpayers whose income covers the entire spectrum, the great majority of our clients' incomes fall within the range of \$10,000 to \$30,000 per year.

Based on our experience, as well as on discussions with colleagues in the industry, I believe the Tax Reduction and Simplification Act of 1977 did benefit those taxpayers able to file the "short form". Also, the raising of the old "standard deduction" from a range of \$2100 to \$2800 for a joint return to a flat \$3200 will indeed afford a tax reduction for married couples who are unable to itemize their deductions this year. The "zero bracket amount" of \$2200 for single people versus the range of \$1700 to \$2400 available in 1976 will provide a tax reduction for some and a tax increase for others, specifically those with adjusted gross incomes over \$13,750 who cannot itemize.

However, for the great majority of middle Americans to whom we refer to as "Mr. & Mrs. Average Taxpayer", there has been little change in the complexity of the tax preparation process and no tax reduction. For the person who owns their own home, even a fairly modest home purchased recently, the interest payments on the first mortgage and the property taxes alone are generally more than sufficient to exceed the "zero bracket amount" of \$3200 or \$2200. For this person to take full advantage of an itemized deduction return still requires a tremendous knowledge of the tax law which one cannot expect the average American, regardless of their educational level, to have.

In this connection I should point out that the jargon used is really not conducive to convince people that the preparation of their return has been simplified. For example, the term "standard deduction" has been replaced with the term "zero bracket amount". The term standard deduction has been used for many years and has general acceptance and meaning to most taxpayers. The substitution of that term by "zero bracket amount" does not convey simplification. Indeed, it conveys the opposite with the result that many taxpayers have become more confused and suspect of the fairness of the tax laws.

Further, although the number of mathematical computations required has been reduced from 1976, an interestingly anomaly remains. The use of tax tables has been around for a number of years. It was felt in 1976 that the calculation of one's taxes by reference to the 1975 tax tables was somewhat confusing and error-prone. Therefore, in the Tax Reduction Act of 1976, multiple tax tables based on the number of exemptions were reduced to one

tax table, but there were more mathematical calculations that were needed prior to getting to an income figure with which one could go to the table. Since this also led to many errors, the result is that the Simplification Act introduced in 1977 has brought us full circle back to the 1975 situation where we have multiple tables based on the number of exemptions. However, we do have deductions for the personal and dependent exemptions and the general tax credit built into the tables, which in fact has been a further simplification.

Overall then, we feel that for the non-itemizing taxpayer, the changes made have generally been beneficial. I say generally because the constant tinkering with the form produces more errors, since taxpayers who prepare their own returns go back to the prior year's return—the constant changing of the forms results in taxpayer error of taking information from a particular line on a prior return and placing it on the same line on the current form, or feeling so unsure of what to do that they feel they must seek assistance.

While the 1977 Act assisted some taxpayers, we believe the taxpayer who itemizes his deductions has not received much help from the Government and it is this group of taxpayers which rely heavily on the commercial preparers like TCA. Existing law is extremely complex and many taxpayers are uncertain as to the deductions to which they are entitled. I believe that we provide the security which these taxpayers demand, namely that they have received the benefit of all legitimate deductions and are paying no more than their fair share of taxes. While the Internal Revenue Service has set up taxpayer assistance programs, our experience is that the personnel staffing these programs are not conversant with many of the problems faced by taxpayers. Moreover, many taxpayers are suspect that the IRS assistance personnel do not point out deductions to which they may be entitled since IRS personnel are not instructed to assist the taxpayers in securing all the deductions to which they may be entitled.

In addition, we provide a service to the IRS as well as the taxpayer in that they rely upon us to make sure the returns are mathematically correct and that the taxpayers who use our service are not taking deductions which they think ought to be deductible but which by law are not. We are a major help in making our voluntary system of tax assessment work, the only one in the world I might add that is successful, which I consider a major tribute to the American people. We at TCA believe we have gone even one step further in making tax preparation as simple and non-threatening a process as possible. We handle the tax interview in the privacy and quiet of the client's own home where all of their receipts and papers are readily available to ensure that the amounts of all deductible items can be calculated properly and where we hope to make tax preparation a little less onerous.

The present mood seems to be to urge both equity and simplification. I am not at all convinced that these concepts are consistent with each other. Obviously, the greatest simplicity is accomplished by doing away with all deductions, exemptions and credits, and imposing a tax on gross income. Many of us, and I include myself, would not consider this approach as equitable. Indeed, every survey which has been taken indicates that such an idea would have very little appeal to the "average taxpayer". In fact, while they agree with the popular rhetoric that all "loopholes" for the rich must be closed, they continue to favor new deductions and credits which fit with their economic situation.

Congress has made great strides in recent years in closing what has deemed to be non-economic and non-productive tax "loopholes" and introducing concepts such as the minimum tax to ensure that most Americans do contribute. One statistic quoted was that if the government confiscated all income over \$32,000 a year, it would only add approximately 3 percent to Treasury's revenues. And since we have already changed our tax law so that the poor do not pay any tax, that leads us to the inescapable conclusion that middle America bears the greatest burden in our income tax system. They know it, resent it, and will continually seek help to make sure that they are paying only their fair share.

Further, there is an ever increasing desire to attack many social problems and to manage our economy through the income tax system which is the root cause of all the complexity that has been built into the system. As long as this approach prevails, and it does not seem realistic to think that it won't, whatever its merits, no real simplification of the law or the forms can ever be achieved outside of minor "tinkering".

I would like to turn my attention to two other areas connected with tax return preparation. The first deals with staggering the filing dates so that returns would be filed at different times throughout the year. This is not a new proposal and, while it has some problems, it also has some distinct benefits. Staggered filing dates would reduce collection costs since the IRS would not have to staff-up for peak periods. The taxpayer assistance provided by the IRS should be improved since the quality of the personnel providing this service would be higher. Those of us involved in the income tax preparation business would be in a position to provide better service since we are also faced with some of the peak period workload problems faced by IRS.

The most common criticism of such an idea is the tremendous amount of confusion that the implementation would cause plus the "loss of revenue" for the Treasury. There is no question that a change so major would indeed cause some confusion, but I think the amount of confusion may be worth the reward. In addition, since the great majority of American taxpayers receive refunds, it could be implemented so that the impact upon the Treasury would not be great. I would urge your Committee to consider instituting staggered filing dates and I am sure that you can develop meaningful specifics.

Finally, I would like to discuss briefly a problem connected with IRS audits. The prevailing view of Treasury, as expressed in Treasury Circular 230, is that a commercial tax return preparer may not represent the taxpayer for whom it prepared the return, on audit. The preparer is permitted to accompany the taxpayer to an IRS conference to explain the method followed in preparing the return.

Under Treasury Circular 230, attorneys, certified public accountants and enrolled agents are entitled to represent taxpayers on audit before the IRS. Enrolled agents are individuals who have demonstrated expertise in the tax field and who have passed an examination prepared and evaluated by the Treasury. If, however, an enrolled agent is employed by a commercial preparer, that individual is precluded from representing taxpayers whose return was prepared by his employer before the IRS. The basis for this position, as I understand it, is that commercial preparers are permitted to, and do, advertise and that since attorneys and CPAs are prohibited from advertising, the enrolled agents should not have such advantage; rather enrolled agents should be on the same professional footing as attorneys and CPAs. We agree wholeheartedly with Treasury's goals of regulating the quality, indeed ensuring the quality, of the people who represent taxpayers before the IRS. However, the recent Supreme Court case which permits attorneys to advertise means that the basis for prohibiting enrolled agents from practice before IRS, merely because of their association with a commercial preparer who advertises, no longer applies. We do not seek the opportunity to advertise that we have enrolled agents eligible to practice before the IRS; rather, we simply seek the right to employ enrolled agents to handle audits for our clients, if the client requests us to do so.

Currently, many taxpayers do not contest adjustments proposed by IRS for several reasons. Often, the taxpayer would lose a day's work or incur significant cost to retain an attorney or CPA to represent him. Sometimes the cost of such professional help will exceed the amount of the proposed adjustment. Moreover, most taxpayers who seek outside assistance in the preparation of their return consider themselves ill-equipped to represent themselves on audit. We as a company feel an obligation to stand behind the returns we prepare through an audit. Under Treasury Circular 230 we are prevented from providing this service. If permitted to provide this service, we believe the entire audit procedure would be improved. For example, a number of audits could be handled at one time, thereby lessening the IRS workload. We have discussed this approach with IRS personnel engaged in field audits and they would be very happy to have this change made, since it would simplify their procedures and, at the same time, free the taxpayer of substantial additional cost and concern currently associated with an income tax audit. We urge your Committee to consider making this change.

I would like to again thank the Committee for the opportunity to express our views and hope they will assist you in achieving our common goal of greater simplicity and service to American taxpayers.

Senator HASKELL. Our next witness is Mr. Franklin J. Tillman of Elmer Fox, Westheimer & Co.

Mr. TILLMAN. Senator, I am bringing one of my partners, Mr. Olsen, with me.

Senator HASKELL. Fine, Mr. Olsen, we're glad to have you here as well.

Mr. TILLMAN. I have given a copy of a prepared statement to Mr. Edwards.

Senator HASKELL. Fine.

**STATEMENT OF FRANKLIN J. TILLMAN, OF ELMER FOX,
WESTHEIMER & CO.; ACCOMPANIED BY EDMOND OLSEN, PARTNER**

Mr. TILLMAN. We do welcome this opportunity, Senator, to appear before this Senate subcommittee and tell you what has been our experience so far this tax season.

The question is, is the 1977 Form 1040 really simpler than the 1976 Form 1040? We feel that while it may be simpler for the person who files a 1040A or who does not itemize deductions, that it basically is not any simpler for the taxpayer who does itemize deductions.

For example, the taxpayer who itemizes finds when he comes to line 34 that he has to go to schedule TC, which is the new tax computation schedule. And that is not a terribly complicated schedule, but it contains two warnings which reads—each one reads the same thing—“Caution: Read the instructions before completing this part.” Just a part of the instructions, for example, contain the following information:

Note: If your earned income is more than your itemized deductions on Schedule A, Line 39, enter your earned income in Part II, Line 3, unless you are married filing a separate return and your spouse itemizes deductions. (See page 11 of the Instructions for Form 1040 for a definition of earned income.)

And that's just part of it.

Now, the IRS has done a tremendous job of redesigning the forms and of writing the Form 1040 general instructions as well as the instructions that apply to the special forms. But just the reading of these instructions, and of course if you don't read them you don't know what you're doing, is quite a job in itself.

We endorse the goal of simplifying the preparation of the returns and the compliance with the laws. I think that's a very commendable goal.

We appreciate the efforts of Congress and this subcommittee in particular in that regard.

Now if a firm, such as our firm, uses a computer service center to prepare the Form 1040 returns, the new returns are really no great problem because the computer has the job of figuring out all the tax computations and the time-consuming calculations. However, even with all the capability the computer possesses, we understand that in January of this year on the first 1977 returns that were being processed, the computer and its programmers went through some traumatic experiences before the computer was taught how to prepare these simpler returns.

Now, we've checked with practitioners and other friends that used to be practicing CPA's to find out how they got along preparing their own returns manually. Now, these are people that know what they're

doing. As I say, they're certified public accountants in some cases, and they find—they've reported that it was quite a different experience because they had to study and familiarize themselves with the new forms.

Each time the Service revises these forms, and this has been mentioned by someone before, of course the taxpayers and the preparers have to learn how to use them.

One wonders, for example, why the IRS found it necessary to reverse the position of the interest income and dividend income columns on schedule B. For years the dividends have always been on the left and the interest on the right. Now, in the interest of simplification, they changed it.

Stability in the format would simplify the preparation of the returns for the average taxpayer, and of course as has been mentioned before, now that they have been revised, we have to start all over again in becoming familiar.

We made a study comparing the 1977 forms with the 1967 forms to see what has happened in the last 10 years. We already knew that the preparation of the returns was more complicated and the study bore this out.

For example, the tax rates today are the same as they were in 1967. There have been tax reductions, but the tax rates are exactly the same. However, in 1967 there were three tax credits. In 1977 there are eight tax credits and virtually all of those tax credits involve another tax schedule, which each schedule involves more instructions.

In 1967 on page 1 you could find out the income, the deductions, the taxable income, the income tax, the credits and so forth, and the signature was on page 1.

In 1977, there are two pages for this information and the signatures are buried on the back of page 2—or it's on page 2—you have to turn the return up side down to find it.

Also in 1967 in addition to the income taxes, there were two additional taxes, the self-employment tax and the tax for recomputing prior year investment credit.

In the 1977 return, and this didn't just happen overnight, there are not only the two that were there in 1967, but there are nine more. There are now 11 tax, additional taxes in addition to the income tax.

Now the IRS puts out the booklet, the package that goes to the taxpayer, and on the average I think that now contains about 38 pages. And just the receipt of that package is a rather awesome, forbidding thing because most people—I shouldn't say most people—but many of the people that we deal with never even look at this. They just bring them in and say I suppose you want these forms and throw them on our desk because it is quite a job to read all that.

If they would devote the time necessary to fully inform themselves by reading and re-reading and re-reading those instructions, they'd probably be able to prepare their own returns and they wouldn't have to go to a professional preparer.

The information is there to be absorbed.

Now, you're interested in credit for the elderly, I understand. We find, however, that many of the elderly for whom we have prepared returns don't get any credit for the elderly. The reason for this is as

follows: For married taxpayers age 65 and over filing a joint return, the initial amount of income for credit computation is \$3,750. From this must be deducted the social security income and one-half of their income from excess of \$10,000.

Well, now if a couple's combined social security income exceeds \$312.50 per month, and that's not unusual anymore, in fact I would say it would be unusual for it to be less than that, this credit for the elderly amounts to absolutely zero.

And we've heard about the zero bracket amounts.

Senator HASKELL. The Government's reaction in the field of social security benefits and its reaction in the field of tax credits has not been parallel. In other words, the tax credit for the elderly was enacted many years ago and it really hasn't been updated, and that's about it.

Mr. TILLMAN. That's right. The \$3,750 is apparently too low today.

The introduction of the new jobs tax credit in 1977 has provided employers a new benefit and it has been a boon to many of them. However, I think it is interesting to point out that when you introduce new legislation, there often are side effects and complications that come as a result of the new tax legislation.

For example, as a result of this new jobs credit, you now are required to reduce the amount of the wages paid by the amount of the jobs credit. So this has the effect of increasing the income of a taxpayer. Say a sole proprietor might have zero income, maybe he had a \$6,000 new jobs tax credit, that would mean that instead of zero income he would have a \$6,000 income.

Senator HASKELL. I don't think I understand that. Let's go through that again.

Mr. TILLMAN. Well, the law provides that, say you have a \$6,000 new jobs tax credit. You must reduce, on your tax return, the amount of wages paid by the amount of that job tax credit.

Senator HASKELL. If you didn't do that you would get a double benefit.

Mr. TILLMAN. Well, I guess that was the theory.

So what it amounts to is that if you—say that your net income turns out to be exactly zero, we'll say, and you had a \$6,000 job tax credit, that would mean that your income then would be \$6,000.

Senator HASKELL. But that would then be subject to a tax which would be obviously less than the \$6,000 credit.

Mr. TILLMAN. Oh, yes; right. Also, you might owe more self-employment tax. You would very likely owe income tax, it would affect the amount of the contribution that you would want to make to the self-employment retirement plan, it would affect the earned income credit. As a result of this \$6,000 then you might end up receiving some earned income credit. It would also have an effect on the deduction for medical expenses and charitable contributions. It also would affect Schedule G—the simple income averaging form. And, of course, it could also have an effect on if a person used form 4726 which is what we call the max tax.

Senator HASKELL. I have a particular interest in the jobs tax credit and I would like to see it extended; it expires December 31 of this year. I've understood that there are some complexities which were not

foreseen when it was drafted. Could you perhaps submit for the record some suggestions for the Finance Committee as to how the credit could be made more effective. I think we ought to get rid of the bugs. If you can submit something for the record to help us in that job, that's separate and apart from this hearing—why, I'd appreciate it.

Mr. TILLMAN. We'd be happy to do that, Senator.

I do think it illustrates, though, that when you tinker with a little something over here, that it has other effects.

Senator HASKELL. It does.

Mr. TILLMAN. Do you have any questions, sir?

Senator HASKELL. Yes; I do.

As I am sure you're aware, your firm was employed to make a survey in Montgomery County, Md.

Mr. TILLMAN. Yes, sir.

Senator HASKELL. And as I understand it, you prepared a factual situation and then contacted different preparers to assist in preparation of a return. I understand you came out with quite different answers from the preparers. Can you describe that?

Mr. TILLMAN. Yes; I would be glad to.

That was prepared by a gentleman—the basic data was prepared by a tax consultant who has offices in Washington, D.C. The tax consultant is both a certified public accountant and an attorney, and he prepared a financial profile for this hypothetical couple and two staff investigators, posing as a man and wife, took this financial profile and went around to the offices of nine tax return preparers in Montgomery County.

Now, the model return that the tax consultant had prepared showed a refund of \$247 due the taxpayers. And none of the nine returns that were prepared came out to that same answer. Only two of the nine had the same amount on them. In other words, there were eight different answers on these nine returns that were prepared. Five of the returns showed refunds due and four of the returns showed a balance due the IRS.

Basically it was felt when these returns were reviewed that the variations resulted largely from the failure of the preparers to ask the right questions.

Now, it is possible that there may have been some time limitations involved, but the difference in the tax, in other words from the greatest refund due to the most amount of balance to the IRS, amounted to \$600; and that's considerable.

Senator HASKELL. Was it a typical situation?

Mr. TILLMAN. Yes.

They tried to pick out items that were usual and ordinary and necessary that were not controversial. In other words, there were not any borderline things.

Senator HASKELL. Would you have any suggestion as to how to prevent this type of situation from occurring?

Mr. TILLMAN. Well, actually the Office of Consumer Affairs of Montgomery County offered some suggestions and we concurred with them. One was to make an appointment to see a qualified tax return preparer as early in the year as possible and not to wait until the last

minute. Also, before going to see the preparer, to be sure that they have read over the instruction booklet generally themselves so that they were generally familiar with the income tax problems that might be involved. The third item they suggested was to take with them more information rather than less. In other words, take along all the supporting documents, 1099's and that sort of thing that they might have. And the last suggestion was when they received the prepared tax return that they should review it carefully themselves to make sure that it contained the items that are in it.

Senator HASKELL. My observation on that is when somebody goes to a preparer, they shouldn't also have to know enough to be able to prepare it themselves.

Now I think the suggestions from the Montgomery Consumer Affairs Agency was, "Get educated so you can do it yourself." Were there any items involved in that fabricated tax situation which might be candidates for the simplification study?

Mr. TILLMAN. The items that the return included were child care, the tax credit for that; a loss carried forward, a capital loss carried forward from the prior year, and the tax return preparer should have wanted to see the prior year's return and should have examined it carefully for that sort of thing. The mother of one of the taxpayers was a dependent and they didn't ask about that. There was another item on the interest computation, the couple had set up two savings accounts for their children under the Maryland Uniform Gift to Minor's Act and the parents shouldn't have been paying income tax on that interest income. And then the husband was a hypothetical security guard and expenses for cleaning his uniforms were deductible, and that was missed.

I don't think these are any major items, you know, but they are customary and ordinary.

Senator HASKELL. Do you have any separate suggestions other than the ones the Montgomery County Consumers Group came up with?

Mr. TILLMAN. Well, pick out a good qualified tax preparer in whom you have confidence. And I think it helps if the preparer, like a doctor, knows his client and knows his problems and keeps a file so that he's got last year's file and has a background in it.

Senator HASKELL. It has been suggested—I'm not sure that I concur with it—that there be some kind of mandatory questionnaire that people fill out which would in effect be a checklist to be used in return preparation.

Mr. TILLMAN. Sir, as mentioned before, we use a computer service and it knocks out for us a pro forma form based on last year's information; and we send that to clients and they can fill in the information if they want to, they can ask questions or answer questions on there if they want to, and we get two types of answers. Some people come in and say, you know, why are you sending me this thing for—they don't even look at it because if they're going to fill it out, what's the use of going to see a tax return preparer. And other people appreciate it and fill it out.

Again, it shows all the information from last year's form and it serves as a reminder.

Senator HASKELL. Well, all right, sir. Thank you, Mr. Tillman, for coming here.

Mr. TILLMAN. Thank you, Senator, we appreciate the opportunity.

Senator HASKELL. Thank you, Mr. Tillman, and Mr. Olsen.

What is your first name?

Mr. OLSEN. Edmond.

Senator HASKELL. Mr. Edmond Olsen of the same firm.

We will have a 5-minute recess.

[Whereupon, a short recess was taken.]

Senator HASKELL. The hearing will recommence.

We have a panel consisting of Jack B. Anderson, Barbara Lundstrum, Lucy Bueno, and Ruth Castagneri. You conduct this however you wish to do so.

STATEMENT OF JACK B. ANDERSON, CHAIRMAN, TAXPAYERS ASSISTANCE COMMITTEE, COLORADO SOCIETY OF CPA'S

Mr. ANDERSON. Thank you, Senator.

We plan to conduct it to provide you with the kind of information that you need in the analysis you're making of the income tax law now.

I am a practicing CPA as well as being a volunteer with the Colorado Society of CPA's. I am the chairman of the Taxpayers Assistance Committee which is a committee which assists lower income individuals in the preparation of their returns free of charge.

This year we have provided refunds in excess of \$110,000 for residents of the Denver and surrounding areas. Our program extends from Pueblo to Boulder and the Greater Denver metropolitan region. We are also attempting to expand this program and make it a national program of CPA's who are willing to dedicate their time to assist low-income individuals in the preparation of an increasingly complex return.

The other members of the panel, Barb, Lucy and Ruth, are all involved with the Project Outreach at the Stapleton housing project.

Barb and Ruth are housewives who are volunteers having been trained in the VITA courses preparing returns for low-income individuals in that housing project.

The Colorado Society of CPA's has assisted them in providing tax expertise through CPA volunteers in assisting the VITA program at that center.

Lucy is a resident of the Stapleton housing project and is a volunteer in the Project Outreach.

The way in which we plan to organize our comments, I will first make technical comments that I have learned from my experience both as a CPA and as a volunteer with the Colorado Society. Additionally, I was recently on a program in which I solicited calls from viewers and received some additional input on the problems individuals are facing.

We will follow that with a statement from Barb describing the problems that they've seen as VITA volunteers through, with our assistance, in more of a nontechnical approach. And we will conclude our presentation with some spontaneous questions with Lucy, a

member of the low-income community, who faces the problems that taxpayers in that economic status see every April the 17th, this year.

Senator HASKELL. This is a great help, Mr. Anderson. Somebody just asked me whether or not there were going to be any real live taxpayers at the hearing. What you've done is even better, which is to give us an opportunity to hear people who have an immediate and direct contact with the problems; the people we're trying to help. So I want to thank you very much, all of you, for coming.

Mr. ANDERSON. We are looking forward to Lucy's comments who is one of the most intriguing individuals that we've had at the Stapleton housing project.

Congressmen, legislators, and tax professionals are aware of their intercessory role as persons responsible to the public for the condition of the tax laws; they must intentionally place themselves in the difficult human situation in which the essential covenant of equity in taxation is being challenged and labeled as meaningless. This role is being realized in order to restructure the taxing system to reveal the significance of this covenant of equity in taxation, to make it happen and to prevent future erosion of this covenant.

This year's problems that we have found are enumerated in my statement. I don't think time allows me to go through all of them but I would like to go through some of the more salient points.

First of all, as has been mentioned, the mere fact of change in forms and law, although the change is due to the Simplification Act, this quite anomalously creates complexity again.

Among low-income individuals, I think there is a near complete misunderstanding or lack of knowledge with regard to the earned income credit, the child care credit and the credit for the elderly. These credits which were specifically designed to add equity anomalously, again, created complexity and has created a lack of awareness.

There is an inability of working spouses of moderate income to understand why the tax law encourages them to divorce and file separate returns. Again, the problem of the married taxpayer which is again offset by the problem that the single taxpayers feel the same commonality of the problem.

There is an inability to understand the new tax tables, the new jargon, the new characterizations such as zero bracket amount, and the integration of exemptions in the general tax credit into these tables. There is a problem in completing schedule A and realizing that the zero bracket amount must be backed out of the itemized deductions. We have seen confusion in many of the other changes that occurred in the law and a lot of these changes are something that one must expect in order to seek a better solution. The short-run cost of trying to seek more equity, trying to seek more simplicity by its very nature means short-run problems but the long-run goal must still be clearly held in mind.

The Roper organization, in a study they published in 1977, shows that the public wants reform. This reform to them means more fairness, more equity in the taxing system for all persons. However, somewhat paradoxically, this reform does not mean eliminating deductions or increasing income. It becomes very difficult to derive

fairness and simplicity at the same time when taxpayers do not wish to have their deductions taken from them.

However, I think the concept started in the 1977 forms through the integration of exemptions, standard deductions, zero bracket amount, general tax credits into tables is an idea which can be further pursued, particularly in the area of the child care credit, the earned income credit, and the credit for the elderly.

Those credits, which I think are very important in deriving equity for this particular group of low-income individuals needs to be further studied.

I would next like to discuss some more fundamental problems, not problems dealing specifically with the return but really what I deem to be next year's problems.

Of course, on my statement I have additional technical problems but I think two fundamental problems—inflation and social security—need to be addressed.

I believe the final income tax burden being placed on low-income individuals is at this point in time a basic statement of equity. Statistics for 1975 which were prepared by the Government and published in Harper's magazine show that the class of taxpayers in the lowest 25 percent of income pay less than 1 percent of the total personal income tax collections while those in the highest 25 percent class of income pay 72 percent of the tax collections. I think this is laudable and I think this demonstrates the sharp progressive nature that we want in our income taxing system.

However, this equity cannot be maintained for low-income individuals nor should the burden be increased on upper income individuals as long as we have a progressive tax rate system which is subjected to inflation.

Our inflation and progressive tax rates work a silent tax increase and eventual destruction of any equity which we have attained to this point in our taxing system and any equity which you may consider in the future in the taxing system. Inflation causes an increase in taxes without an increase in real income having occurred. The result is a decrease in total real income.

Although this silent tax increase may be deemed by some to be politically expedient, it is truly a fraud on all members of the American public.

The solution to this problem lies in a permanent indexing of the tax rates to the inflation rate. This would cause the rates to be lowered based on the rate of inflation and thus the real tax burden would remain constant. The recently proposed bill by Senators Javits and Danforth is a step in this direction but it falls short.

The second fundamental problem which I would like to bring to your attention, Senator, is social security.

This year in preparing returns for low-income individuals and supervising the program as well as working with my fee clients, we saw a regressive tax and a tax that is going to continue to become regressive as it scales in over the next few years.

From the point of view of low-income individuals, I was confused to see Congress pass an increase in a very regressive tax, social

security tax, and then see the President propose a reduction in a very progressive tax—

Senator HASKELL. Join the club.

Mr. ANDERSON [continuing]. The income tax.

Senator HASKELL. I'll agree.

Mr. ANDERSON. Although I am in favor of a reduction in tax, I find it hard to understand the logic of that. I think that it really continues to erode the concept of any equity that we're able to obtain and it is something which I think the solution lies primarily in the funding of the social security system, something which I'm not fully prepared to discuss and something I know which is very sensitive.

I also think that a partial solution lies in those individuals who wish to provide for their own "social security" be allowed to do so through such private plans as the IRA, individual retirement account.

In conclusion, the tax year 1977 has not seen simplicity in determining income or deductions, but it did see the calculation of tax simplified.

Also, the tax form has been more logically arranged and I have also seen that—I believe Congressman Rosenthal was discussing with the General Accounting Office—that new concepts are now being considered and two graphic specialists have been hired by the GAO to further provide simplification and again a new form for next year.

Again we see the paradox of equity and simplicity equaling complexity.

However, the credits and tables are still quite a source of confusion for taxpayers. The continual search for equity and simplicity will bring change and complexity in the short run but must be completed for the long term stability of our taxing system.

The most pernicious evils confronting our tax system and the covenant of equity which we have struck is inflation and the regressive social security tax.

Inflation indexing the tax rates and refinancing of the social security system deserve your fullest attention.

I would now like to bring to the front Barbara Lundstrom who will introduce herself and discuss the statement that she has.

Senator HASKELL. Fine, thank you.

STATEMENTS OF BARBARA LUNDSTROM, RUTH CASTAGNERI, AND LUCY BUENO, PROJECT OUTREACH, STAPLETON HOUSING PROJECT, DENVER, COLO.

Ms. LUNDSTROM. Mr. Chairman, I am Barbara Lundstrom and this is Ruth Castagneri. We are housewives who volunteer several hours a month at a storefront called Outreach, located in the low-income Stapleton Housing Project in Denver. Our friend here, Lucy Bueno, is a resident there and also a volunteer at Outreach, at the storefront.

Now Outreach is a place where people from different socioeconomic and cultural backgrounds get a chance to meet and know each other.

When we became aware of the need for tax assistance, we decided to take some positive action. And when the people heard of our tax program, they came to us because they believed in Outreach. We

soon learned that many are basically illiterate. A few cannot sign their name, many do not speak English, and most have no transportation and the majority have an overwhelming fear of filing a tax return. We were amazed to learn that most cannot comprehend even a W-2 form, let alone a 1040A which seems to change every year. Many had not filed last year, did not come with forms and did not know where to obtain them. A few employers had not withheld taxes. Most had no knowledge of earned income credit, credit for the elderly, or child care credit.

We also discovered that most needed some or all assistance no matter how simple the form was. All were fearful they could not answer the questions correctly or would put the information on the wrong line. An interpreter was needed for those not speaking English. And all of the people were interested when we reviewed the completed form with them and a few remarked that they might try it on their own next year.

We would like to see more unification between the State and Federal forms. And as a partial solution, we believe that high schools should have a mandatory class in preparation of individual income tax returns. This would solve the basic problem that we have found—a total lack of understanding.

We also feel more ordinary lay people can be trained sufficiently to go directly to the low-income taxpayer in their own surroundings. And in this way it would eliminate their fears, raise their hopes, and in the process make us more sensitive to their needs.

Thank you.

Senator HASKELL. Thank you very much indeed.

Ms. LUNDSTROM. I think that we would like to ask Lucy just a few questions spontaneously here today.

Senator HASKELL. Certainly.

Ms. CASTAGNERI. Lucy, have you ever filled out your own income tax?

Ms. BUENO. No; I never have.

Ms. CASTAGNERI. Never have. Most people that you know, have they filled out theirs?

Ms. BUENO. No.

Ms. CASTAGNERI. Do they know how?

Ms. BUENO. No; they don't.

Ms. CASTAGNERI. And who do they go to for help? Before we came?

Ms. BUENO. We used to go to Joanne, the social worker.

Ms. CASTAGNERI. And you have been to—

Ms. BUENO. H. & R. Block.

Ms. CASTAGNERI. You did go to them?

Ms. BUENO. Yes; when I used to work.

Ms. CASTAGNERI. Somebody had to take you there?

Ms. BUENO. Yes.

Ms. CASTAGNERI. Have you ever heard of earned income credit?

Ms. BUENO. No.

Ms. CASTAGNERI. You don't have any idea what it means?

Ms. BUENO. No.

Ms. CASTAGNERI. Well, do you think the people that live there in the project, if there was an Internal Revenue Office there close by,

would they go to them for help? Do you think they have any fear? If we were there assisting you—

Ms. BUENO. Yes; I think they would.

Ms. CASTAGNERI [continuing]. And they had a choice to go to the IRS or to come to somebody they were familiar with, who do you think they would choose?

Ms. BUENO. You.

Ms. CASTAGNERI. Because they wouldn't be afraid?

Ms. BUENO. No; because they wouldn't be afraid.

Ms. CASTAGNERI. They don't understand the form so they don't understand what to do?

Ms. BUENO. No.

Ms. LUNDSTROM. Lucy, would you be able to fill out a form yourself?

Ms. BUENO. No.

Ms. LUNDSTROM. Why wouldn't you?

Ms. BUENO. Because I don't know how.

Ms. LUNDSTROM. You wouldn't know how?

Ms. BUENO. No.

Ms. LUNDSTROM. Can you read English?

Ms. BUENO. Yes.

Ms. LUNDSTROM. What about most of the people?

Ms. BUENO. Well, most of the people, they don't.

Ms. LUNDSTROM. If it were in Spanish, do you think some of the people could?

Ms. BUENO. Yeah; some of them.

Mr. ANDERSON. Do you think that a bilingual form would be an advantage?

Ms. BUENO. To some people, they would. But I wouldn't understand it.

Mr. ANDERSON. You're saying many of the people still wouldn't understand the forms no matter—

Ms. BUENO. Yes.

Mr. ANDERSON [continuing]. If it's written in some language between English and what we commonly speak now?

Ms. BUENO. Yes.

Mr. ANDERSON. But if it commonly was in Spanish, it still wouldn't serve the problem?

Ms. BUENO. No; it wouldn't.

Ms. LUNDSTROM. When you went to a professional tax assister, did you have to pay?

Ms. BUENO. Yes; I did.

Ms. LUNDSTROM. Was that—

Ms. BUENO. H. & R. Block, I had to pay.

Ms. LUNDSTROM. H. & R. Block? Okay.

Ms. BUENO. With Joanne, I didn't.

Ms. LUNDSTROM. Ah-huh. Was it hard for you to have to pay out money to have someone fill out your return?

Ms. BUENO. Yes; because I wasn't making enough money.

Mr. ANDERSON. Do you, Senator, have any questions for Lucy?

Senator HASKELL. Yes; let me first ask you and also the others whether the majority of people who come to your program owe any tax?

Mr. ANDERSON. In the limited situation. I would say 98 percent of the cases, 95 percent of the cases they are entitled to refunds. And I think this is something that would cause one to look at our withholding system because we are getting a lot of individuals that are over withheld and there is a lot of validity to taxation at the source as opposed to taxation through the form. However, many of the individuals receiving refunds are receiving an earned income credit and thus the form is necessary for that and once that was integrated into the withholding system.

Senator HASKELL. So what would be happening, Mr. Anderson, if your organization wasn't here? Would I be correct, that the people you serve would probably not get their refund because they wouldn't be able to fill out a form nor understand the earned income credit.

Mr. ANDERSON. I would think that some of them would go to a commercial preparer, but I think that is a minority. And I think the majority of the individuals have such a fear of the tax and the form, they are totally misunderstanding the form and in total fear of it, that they would, you know, chuck it, so to speak, and they would not proceed with the forms.

Senator HASKELL. Possibly with the earned income credit not being worked into the withholding tables, there is overwithholding, a lot of people are not getting back their rightful refund. That's what you're telling me; isn't it?

Mr. ANDERSON. I'm saying that I think part of the solution may be a rethinking of the withholding structure, that in many of these cases the burden on the IRS just processing all these additional forms has a significant cost. There is, of course, the significant cost in terms of individuals who are entitled to refunds that are not receiving them. If that could be solved by the withholding at the source and the adjustment of those tables, you'd see less of a problem.

Again, a large part of the problem that we face is with the State forms, which is something, of course, you can't—

Senator HASKELL. Right.

Mr. ANDERSON. But with the Federal, the main thing would be something at the source.

Senator HASKELL. That's extremely interesting. This is a whole new dimension. There must be lots of people who really don't get back what they're entitled to?

Mr. ANDERSON. I think so. There would be a lot of difficult problems in having, you know, such a system of withholding at the source, particularly individuals that have multiple employers and so forth, but I think a lot of those problems could be worked out.

Senator HASKELL. This is certainly something that we should add to the study called for in the bill.

I know it is hard to deal in the numbers of people, but Mrs. Bueno, how many people who you know go to places like H. & R. Block or other preparers? Do you have any idea?

Ms. BUENO. No; I don't.

Senator HASKELL. Most people who you know, do they get their withholding slip, the paper you get from your employer, and then do nothing? I mean, do they figure they've paid their taxes and then they just let the matter drop?

Ms. CASTAGNERI. I could answer that for you; I have had several experiences in that, and that is exactly what they did. They had no comprehension of what this form meant to them.

Senator HASKELL. Right.

Ms. CASTAGNERI. So therefore, the one particular person brought it in and just embarrassedly handed it to me because of the small amount. Well, it turns out she had thrown them away for 3 years, and there was withholding on them. And, of course, she was entitled to everything that was withheld. So this does happen and more than once. They don't realize what they need to do with those W-2 forms. Now, that isn't widespread, but that is a problem.

Senator HASKELL. Well, you've brought up a whole new dimension.

Have you had any experience with the retirement income credit?

Mr. ANDERSON. Well, usually we find that it doesn't apply, and I think some of the individuals to whom it would apply we never see; and when we do see that person, as was previously mentioned, the social security income that individuals receive, particularly when it is a husband and wife, that they're automatically out of the system.

Senator HASKELL. The same thing Mr. Tillman was talking about.

Mr. ANDERSON. Yes. Really, the system—by the way it was revised, the form was simplified to a degree. I think the basics of the credit, you need to look at again; the basis and the cutoffs need to be reevaluated.

Senator HASKELL. Right.

I am informed here that the Internal Revenue Service advertises the earned income credit, but obviously the advertising isn't getting through.

Mr. ANDERSON. I think a lot of the problem is long term, and it relates to a basic fear, a basic lack of understanding, a basic lack of education.

One of our long-term thoughts that Ruth mentioned initially was making sure that taxes is a part of the education curriculum in the high schools. I know that Gerry Muhlbachler has stated that these forms are sent to the high schools, but I don't think they have been integrated into the schools' curriculum, and I know that with the funding power that the Federal Government has that a requirement of providing income tax courses, mandatory for all students as opposed to the few that take them now, could be easily tied into an appropriation bill on education, I would think.

Senator HASKELL. If you're going to get the job done, I think something more is required. I'm not quite sure what it is.

All I can say is thank you very much. Indeed, you brought a new and very important dimension to these hearings. I will amend my bill to be sure this is covered in the study. I imagine this could be fairly widespread among certain income levels, and so this isn't an isolated case by a long shot.

Mr. ANDERSON. I don't believe so.

Senator HASKELL. All I can say to you ladies and to you, Mr. Anderson, is thank you very much indeed for coming. I think you've added immeasurably to the hearing.

Mr. ANDERSON. Thank you, sir.

Ms. LUNDSTROM. Thank you very much.
[The prepared statement of the panel follows:]

STATEMENT OF JACK B. ANDERSON

LEGISLATIVE INTERCESSION

Congressmen, legislators and tax professionals are aware of their intercessory role as persons responsible to the public for the condition of the tax laws; they must intentionally place themselves in the difficult human situation in which the essential covenant of equity in taxation is being challenged and labeled as meaningless. This role is being realized in order to restructure the taxing system to reveal the significance of this covenant of equity in taxation, to make it happen and prevent future erosion of this covenant.

QUALIFICATIONS

I am a C.P.A. who sees the need for the taxing system to be restructured from at least two points of view: as a paid professional for affluent clients; as a volunteer coordinating the efforts of 100 C.P.A. and student volunteers in preparing returns free of charge for low-income individuals. This program of the Colorado Society of Certified Public Accountants assisted low-income individuals in applying for refunds of over \$110,000 in 1978.

THIS YEAR'S PROBLEMS

You have asked me to present the main technical problems that I saw taxpayers encountering in filing this year's Federal income tax returns. The technical problems include:

The mere fact of change in forms and law (although the change is due to the Simplification Act, the change itself is, anomalously, complexity).

Among the low-income individuals, near complete misunderstanding or lack of knowledge of earned income credit, child care credit and credit for the elderly.

Inability of working spouses of moderate income to understand why the tax law "encourages" them to divorce and file separate single returns.

Inability to understand the new tax tables include "zero bracket amount", exemptions and general tax credit.

The zero bracket amount is a flat amount and not varying with income.

Completing Schedule A by failing to back out the zero bracket amount.

Trying to deduct the zero bracket amount on page 2 of Form 1040.

Not understanding the various tax tables; particularly, "head of household" status.

Confusion in using Schedule TC when income averaging, alternative capital gains tax, maximum tax, having a dependent child with "excess" passive income or married filing separately with one spouse itemizing applies.

Confusion in the law in completing Schedule G for income averaging.

Change in alimony as a deduction.

Change in holding period for capital gains and losses and deductibility of losses.

Failing to deduct medicare insurance as an itemized deduction.

Not understanding the limitations on certain itemized deductions (*e.g.*, medical and casualty losses).

Confusion over the sales tax tables and adjustments (*e.g.*, social security can be added to base).

Confusion between the relationship of Federal and state returns and the loss of credits on the state form (*e.g.*, earned income credit).

Many of these problems relate to changes in the law. Others relate to the paradox of increasing equity means a loss of simplicity. A solution to these problems requires individual attention and is not singular. It requires changes, consistency and education.

I would next like to discuss future fundamental problems I saw in completing returns this year.

NEXT YEAR'S PROBLEMS—INFLATION

I believe the final income tax burden currently placed on low-income individuals is equitable to them. Statistics for 1975 show that the class of taxpayers in the *lowest* 25% of income pay less than 1% of the total personal income tax collections (while those in the *highest* 25% class pay 72% of the collections). This demonstrates the sharp progressive nature of our taxing system.

However, this equity cannot be maintained for low-income individuals in an inflationary economy. Nor should the current tax burden on other more affluent classes of taxpayers be increased through inflation. Our inflation and progressive tax rates work a silent tax increase and eventual destruction of any equity in our taxing system which currently exists or is to be legislated. Inflation causes an increase in taxes without an increase in real income with the result of a *decrease* in real income.

Although this silent tax increase is politically expedient, it is a fraud on all members of the American public.

The solution to this problem lies in a permanent indexing of the tax rates to the inflation rate. This would cause the rates to be lowered based on the rate of inflation and thus, the tax burden to remain constant in real terms. The recently proposed bill by Senators Javits and Danforth is a step in this direction, but does not go far enough.

SOCIAL SECURITY

The second fundamental problem I saw this year for all taxpayers is the increase in social security taxes. From the point of view of low-income individuals, I was confused to see Congress pass an increase in a very regressive tax (Social Security) and then the President propose a reduction of a progressive tax (the income tax). Although I favor a reduction of the income tax, I find it hard to understand the equity in the above strategy.

The solution to this problem lies in the nature of the funding of the Social Security system. A partial solution also lies in those individuals who wish to provide for their "social security" in private plans (such as I.R.A.'s), be allowed to do so.

CONCLUSION

The tax year 1977 has not seen simplicity in determining income or deductions, but it did see the calculation of tax simplified. Also, the tax form is more logically arranged. However, the credits and tables are still a source of confusion. The continual search for equity and simplicity will bring change and complexity in the short run, but must be completed for the long term stability of our tax system.

The most pernicious evils confronting our tax system and the covenant of equity are (1) inflation and (2) the regressive Social Security tax. Inflation indexing the tax rates and refinancing the Social Security system deserve your fullest attention.

It has been a pleasure to appear before this subcommittee.

**1978 TAXPAYERS ASSISTANCE
PROGRAM**

COLORADO SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS

**TAXPAYER ASSISTANCE PROGRAM
THE COLORADO SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS**

7720 E. Belleview Ave., Bldg. 46B
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Chairman: Jack B. Anderson
861-4010

HISTORY:

- 1974 *Established as a subcommittee of the Colorado Society's Social Responsibility Board in February, 1974.
- *Worked through 4 Legal Aid locations in Denver, Colorado on Thursday evenings
 - *45 volunteers--all professionals involved.
 - *73 Tax Returns prepared; no figures available on amount of refunds applied for.
- 1975 *Changed to Sunday afternoons during tax season.
- *Used churches for preparation sites; 7 locations.
 - *39 volunteers, of which 14 were students from local accounting honorary society.
 - *276 families served for a total of 538 returns prepared and \$56,476 in refunds applied for.
- 1976 *10 church locations used.
- *52 professionals, 33 student preparers utilized, in addition to 6 attorneys.
 - *294 families served; \$72,661 in refunds applied for.
- 1977 *Significantly expanded preparation sites to include several outside the Denver metropolitan area and also the May D&F Downtown, the first retail establishment.
- *15 locations.
 - *86 volunteers of which 38 were students.
 - *358 families served; \$86,383.60 in refunds filed for.
 - *Significantly increased publicity efforts--see attached appearance record for committee chairman.
 - *Instituted special fall program for preparation of property tax and rent credit forms. Approximately 30 returns prepared and \$3,000 in refunds filed for. Again handled through May D&F Downtown.

Problem is still shortage of customers

CPAs dispense free tax-return aid to aged

By ALAN CUNNINGHAM



NEWS PHOTO BY HOWARD BROCK

11 Bronco quarterback Norris Weese, right, Mr. and Mrs. Manuel Martinez with their tax returns.

The parish hall at St. Joseph's Church, W. Sixth Avenue and Galepage Street, wasn't nearly as full Sunday as it probably is on bingo nights. Nonetheless, Jack Anderson and his team of volunteers from the Colorado Society of Certified Public Accountants were pleased at the turnout.

The game Sunday wasn't bingo. Instead, it was an effort to fill out tax forms for senior citizens, the handicapped and others with low incomes. The payoff came in assuring that many would get refunds as a result of this help.

Here, as in three other locations in the city, accountants were donating their time to cut through the red tape for people who found the tax forms overwhelming when they tried to figure them out on their own.

Anderson explained that the project — one of the first of its kind in the nation — has been under way since 1974 when society members agreed the poor were just as entitled to tax help as those who could afford to pay for it.

FOLLOWING THE LEAD OF a similar group in New York City, they set up a program that year which would make it possible to provide such help.

In 1974, as Anderson explained Sunday, they set up shop in Legal Aid offices on week nights. But hardly anybody showed up, so have their tax forms filled out. Slowly, it dawned on the accountants that they'd made a mistake. Their would-be clients, they discovered, were intimidated by lawyers and the law — even the Legal Aid variety. So, in 1975, the CPAs changed their strategy and went to churches.

That worked better. It was neutral ground, a place where people felt safe and at home. They began to show up.

Since then the accountants have continued to experiment with the best ways to get the word out that their services are available. This year, they hope to fill out returns for at least 500 families, assuring them of refunds totalling \$100,000.

As Anderson pointed out, those who showed up Sunday at St. Joseph's might get back as much as \$300 each by taking proper advantage of such things as the state's sales and property tax credits.

THIS COULD AMOUNT TO a month's income for many — well worth taking the time to get free help.

But he also noted that there are thousands of people in the area who could use such help but

aren't taking advantage of the service. So, the project's chief flaw continues to be a lack of customers.

Anderson said he and his colleagues always are delighted when they arrive at St. Joseph's. People in that neighborhood have come to know the accountants and have faith in them. They turn out in adequate numbers to keep the CPAs busy.

One of the volunteers Sunday was Norris Weese, better known to most Denverites as a quarterback for the Denver Broncos. In the afternoon, he works for an area accounting firm.

Several of those who wound up at his section of the table asked for autographs after they got through with the tax forms.

Anderson said the weekly sessions have been going on at various places since January and will continue each Sunday afternoon through March 18 at up to six locations per week. Full details can be learned by calling the society at 775-2877.

PROOF THAT HELP IS needed to fill out the forms — especially the state's current version — came from David Jordan, 31, of 233 Linden Court, who currently works as an investigator for the U.S. Food and Drug Administration. He qualified for free tax help because he came to Colorado late last year and his total income here thus was low. Jordan has a degree in microbiology, although he hasn't yet landed a job in his field. He said he worked in Kansas, Missouri and North Carolina, as well as Colorado, but found this state's tax forms the most complicated of any he's seen yet.

Describing himself as "a functional illiterate" when it comes to filling out tax returns, he had, nonetheless, been able to cope with those from Missouri where he worked most of last year. But he said it made "plenty of difference" that Weese helped him with his Colorado return.

"That one threw me for a loop," he said.

Anderson said the Colorado CPAs now are encouraging their colleagues in other states, including Montana and Oregon, to set up similar volunteer programs.



Jack B. Anderson

TO: Colorado Society of Certified Public Accountants

FROM: Jack Anderson, Chairman, Taxpayers Assistance Committee

RE: September 15, 1977 Progress Report

Our committee is off to an unprecedented quick start in that we have already conducted an educational and tax return preparation day in order to promote and help complete necessary forms for the Colorado, Denver and surrounding municipalities' property tax rebate program.

On September 10, 1977, we conducted a property tax refund program at the downtown May D & F. This special property tax refund program had been publicized on the radio and in all of the major newspapers in Denver. The major thrust of the program was educational. The media publication gave the phone number of the Society office, where it had been previously arranged to have questions answered with regard to property tax refunds. The secondary element to our program was the actual preparation of the forms. This resulted in refunds of approximately \$3,000.00 for qualified individuals.

With regard to the above program, we had contemplated purchasing a full-page ad in a local seniors' paper, however, due to budgetary restrictions, we decided this was not an allocation which we could afford.

The above program was important in that it provided a "wet run" for the entire committee and all of the subcommittees. Thus, I think that the remaining activities of our committee are further ahead than they have been for years, since each of the committees has had an opportunity to work through various activities in order to conduct this special program.

The committee and its subcommittees are currently working on arranging all of the necessary activities in order to have 1978 income tax program scheduled and planned before the end of this year. Another additional thrust I think we will be able to obtain this year is in conducting educational and training seminars dealing with the tax problems of low income taxpayers for community organizations. We have already tentatively agreed with the Denver Commission on Community Relations to conduct this seminar for the Denver area social workers.

I am optimistic that with the enthusiasm and already demonstrated success of this committee that this will again be a better year for the committee.

JA:sdw

COMMUNITY RELATIONS DIVISION

Earl E. Mackey, Division Coordinator

COMMUNITY RELATIONS BOARD - Harold D. Hein, ChairmanObjective:

To establish, coordinate, promote and evaluate programs and activities:

- A. through which members and chapters can be of service in meeting social and civic community needs;
- B. through which the profession can maintain liaison with specific non-governmental "publics" that have some common interest with the profession.

Activities:

1. Act as a long range planning body for the Community Relations Division and coordinate the activities of the committees within the division.
2. Serve as a coordinating body that monitors the committees' liaison efforts with community leaders and groups.
3. Work with the chapters in attempting to establish some of the activities of committees at the chapter level.
4. Establish a system to encourage and assist members to become more involved with activities related to the work of this division.
5. Identify other community organizations or other specific non-governmental "publics" with which the Board or committees should maintain contact..
6. Maintain a liaison with the Colorado Accountants for the Public Interest.
7. Meet with representatives of various community organizations to learn the status of their activities, further identify areas where volunteer CPAs might be of assistance, and evaluate the effectiveness of programs.
8. Monitor AICPA Public Relations Program.

ASSISTANCE TO COMMUNITY ORGANIZATIONS - Donald E. Filegar,
ChairmanObjective:

To direct and evaluate programs through which Society members can provide professional assistance to community non-

profit organizations in keeping with our social and community responsibilities.

Activities:

1. United Way Loaned Staff Program
2. Professional Assistance (United Way agencies and other non-profit organizations.)
 - a. Technical
 - b. Placing CPA's on Boards of Directors or as advisors
3. Liaison with Professional Organizations
4. Financial Management and Budget Seminars
5. Public Relations - contributed time of committee members, evaluation of programs, media, and CSCPA Newsletter.
6. United Way Task Force - Advisory Role
7. Chapter Liaison

CAREER EDUCATION - Francis M. Ricci, Chairman

Objective:

To attract qualified students into formal collegiate educational studies to prepare them for entry into the public accounting profession and to increase the number of minority CPAs in Colorado.

Activities:

1. High school level - conduct activities aimed at increasing the awareness level of public accounting careers and educational preparation on the part of key administrative and faculty personnel and students. These activities will include the use of special-purpose brochures, one-on-one conferences with key administrative and faculty personnel, and participation in career day programs.
2. College level - conduct activities aimed at:
 - a. Enhancing accounting major students' knowledge as to qualifications for entry into public accounting and the challenges, opportunities and "way of life" of professional CPA's.
 - b. Maintaining strong, positive relations with accounting faculty.

- c. Plan a "Student-day program" involving visitation by junior accounting majors selected by faculty as promising CPA candidates to offices of CPA's in Denver and attendance at a dinner program.
 - d. Offer campus activities to all colleges, including junior colleges. These will consist of panel discussions and mock interviews. The Committee will prepare a publication describing the types of programs that the committee can provide to the colleges for use by faculty and student groups.
 - e. CPE assistance will be offered to CPA faculty members early in the academic year via a voluntary effort by CPA firms having "in-house" CPE programs.
3. Ethnic Minority Recruitment
- a. Recruit high-school students.
 - b. Assist (including financial assistance) minority college students.
 - c. Explore the possibility of providing financial assistance for the academic year 1978-1979 for graduate studies in accounting to non-accounting, deserving minority students completing their undergraduate studies in a non-accounting field.

RELATIONS WITH THE FINANCIAL COMMUNITY - Douglas M. Sparks,
Chairman

Objective:

To expand the financial public's understanding and awareness of the accounting profession and of the varying roles and participation of CPA's in the business environment, to promote closer relationships between the accounting profession and the financial community, and to enable members to become more responsive to the financial public through enhanced understanding of their needs.

Activities:

1. In conjunction with the Continuing Professional Education Division, conduct the fifth annual Colorado Banker - CPA Conference on November 16, 1977.
2. Continue involvement in arranging a technical program with Robert Morris Associates.
3. Arrange a luncheon program for the Executive Credit

Group of the Rocky Mountain Association of Credit Management.

4. Provide a CPA to write an article for publication in the Credit and Financial Management magazine and to review possibilities for additional articles for publication.
5. Develop a booklet describing CPA services and auditors reports for distribution to interested parties.
6. Organize and conduct luncheons with bankers and CPA's from different geographic areas within the Metropolitan area.
7. Organize and conduct a technical workshop program and luncheon for CPA's and savings and loan representatives from the Metropolitan area.
8. Continue participation in programs sponsored by the Rocky Mountain Surety Managers Association.
9. Communicate with the local CSCPA chapters to inform them of our planned activities and to offer our assistance, as practical, in the development of similar programs at the local level.
10. Explore the possibilities of additional involvement with industrial bankers' groups, banking educational programs, and other groups within the financial community.

SMALL BUSINESS EDUCATION - Michael M. Otte, Chairman

Objectives:

1. To establish an organization effective in the small business community by:
 - a. Providing educational programs to that community.
 - b. Providing free, direct assistance to small business enterprises.
2. To promote the committee activities in the small business community.
3. To establish and maintain close relationships with the small business community to ascertain it's needs and formulate activities accordingly.

Activities:

1. Develop and execute appropriate promotional strategy.

2. Develop liaison between this and other committees to insure a unified effort.
3. Plan, organize and supervise educational programs and materials.
4. Develop questionnaire to survey other organizations and their needs in filling educational gaps.
5. Recruit volunteers for teaching and direct assistance.
6. Establish reporting and evaluation procedures.
7. Pursue one-on-one assistance through SBA, DCV and similar referring organizations.
8. Develop resource list of other organizations providing assistance to small business to which "client" can be referred.

TAXPAYER ASSISTANCE - Jack B. Anderson, Chairman

Objective:

To provide competent tax assistance representation and advocacy for individual taxpayers who are unable to obtain such assistance on a fee basis and provide educational assistance to individual taxpayers.

Activities:

1. Conduct educational and training seminars dealing with the tax problems of low income taxpayers for community organizations and committee volunteers.
2. Prepare income tax and property tax returns for individual taxpayers who are unable to obtain assistance on a fee basis.
3. Review standards for volunteer workers.
4. Review and communicate in writing income and other eligibility standards for taxpayers requesting assistance.
5. Coordinate activities with other area organizations that provide similar services.
6. Arrange for physical facilities and confirm in writing where tax return preparation may be accomplished. Distribute hand bills at site two weeks before date scheduled.
7. Obtain volunteers to prepare tax returns and render other tax services as needed. Maximize utilization of student volunteers.

8. Conduct a special program that would provide education and/or tax return preparation services with regard to the Colorado and Denver property tax rebate.
9. Inform CSCPA chapters of our activities and assist in implementing their own taxpayer assistance programs.
10. Exchange information with other taxpayers assistance organizations.
11. Develop and implement a formal system of recording assistance requests, volunteers assigned, type of assistance provided and number of volunteer hours expended.
12. Monitor activities of volunteers and evaluate their performance.
13. Establish guidelines for acceptable promotion of the committee's services, and maximize promotional efforts within these guidelines.
14. Provide assistance to eligible taxpayers currently being examined by taxing authorities.

TAX RETURNS WOULD BE FREE

AND WE CAN HELP YOU PREPARE THEM

Are you eligible for income tax credits, property tax or rent credits, or food tax credits?

Do you need help to prepare your 1976 INCOME TAX RETURNS?

WE CAN HELP

FPAC professional income tax return preparation is now offered to qualified individuals by volunteers of the Colorado Society of Certified Public Accountants.

QUALIFICATIONS: Basically, if you are eligible for Colorado or Federal low income benefits or if you cannot afford to have your tax returns prepared, we will prepare them free.

WHERE:

WHEN:

!!! IMPORTANT--WHAT TO BRING !!!

For your 1976 Federal and Colorado Income Tax Returns, Bring:

1. Your W-2 forms for 1976.
2. List of all other income, such as tips, interest, etc.
3. Business income and expenses.
4. Records of other deductible expenses such as interest, contributions, taxes, union dues, medical & child care.
5. A copy of your 1975 Income Tax Returns if you have them.

For your Property Tax or Rent Credit, Bring:

1. The amount of Social Security received in 1976.
2. Amount of any other income you received in 1976.
3. If you rent, the amount of rent you paid in 1976.
4. All of the above information for 1975 if you qualify for a 1975 Denver Property Tax Credit.

ALL INFORMATION WILL BE TREATED CONFIDENTIALLY

For more information about this free tax service, please call the Colorado Society of Certified Public Accountants at 773-2877.

BEST AVAILABLE COPY

Senator HASKELL. The next witness is Marshall McClung, director of the Park County Department of Social Services.

STATEMENT OF MARSHALL McCLUNG, DIRECTOR, PARK COUNTY DEPARTMENT OF SOCIAL SERVICES, FAIRPLAY, COLO.

Mr. McCLUNG. Senator Haskell, Marshall McClung from Fairplay, Colo.

I am currently the director of the Park County Department of Social Services, and I am also an attorney.

When I was invited to speak here today, I wasn't quite sure why, and after hearing tax preparers testify on a subject where they have a vested interest, I think it is a good thing that a taxpayer has an opportunity to speak.

That reminds me of asking a fox how he should build a fence around the chickenhouse. And from a taxpayer's standpoint, I think simplification might be a little less important than equity, but it certainly is a desirable thing.

A tax attorney friend of mine, when I told him I was going to be here, commented the more complicated they make it, the better my business is, and I winced a little.

The first thing, and these are not necessarily germane per se to the discussion of simplification, but Mark Kalish told me these were things that could be addressed at this hearing. The first thing that I would like to address is the marital tax. I think there the first thing that comes to my mind is that when the Internal Revenue Code was originally conceived, it was generally considered that a woman's place was in the home so that the joint tax return giving the married filing jointly a type of tax rate was a benefit to a married couple.

I think today a woman's place is to help her husband keep things together; very often, especially in the middle class, we're finding that a great number of women are working and that there has been an inequity created by this. The inequity goes deeper, to me, than just an unfair thing. I think what we're seeing is the generation of a public policy against marriage at a time when marriage is under assault from quite a few of the young people. By putting penalty on the tax of a married couple where both persons are working, essentially people are treated as if they are doing something that is not desirable. There are people who even are getting divorced at the end of the year so they can file separately, getting remarried; some aren't bothering to get married just because it costs money.

I was struck by the silent tax. I haven't heard it called that before, that Mr. Anderson mentioned. But I might point out that this silent tax, the increase in percentage of income that is taken in tax when income in real dollars isn't going up at all, this also applies to the marital tax so that the greater the income of a couple, the greater the percentage of the marital penalty, and I would give as an example that a couple where each person is earning \$15,000—total income of the household \$30,000—the marital penalty is over \$1,000; it's about \$1,043 according to the—

Senator HASKELL. Excuse me, Mr. McClung. This is so widely recognized as an inequity that two employees of the Internal Revenue Service, Mr. Mihlbachler showed me their letter, wrote to the regional

commissioner and analyzed how much it cost them to stay married. They even netted out the cost of a divorce, because they didn't want to overstate it. So this is a problem, I think, that is well known and has got to be addressed.

Go ahead.

Mr. McCLUNG. OK.

As the couple's income went from \$15,000 to \$20,000, the marital tax or the tax penalty on marriage would increase from \$1,043 to \$1,858. In other words, the silent tax is operating very heavily in this area.

I would suggest one possible solution to that in the attempt to avoid overcomplicating—and I may be missing all kinds of subtle ramifications—but if you were to allow a married couple the option of splitting their income, just halving it and going to the single taxpayer table and then doubling the amount that you'd find from that table, you could keep the same tables you've got now, whether or not that is desirable is another thing.

There is another inequity which strikes me as being worthy of comment, and that's the treatment of child support under the internal revenue code. This is an individual situation and I apologize for taking the time of the committee and the people here, but you're hearing complaints from a taxpayer, in a situation where for instance child support is paid to a household that has a much, much higher standard of living, the individual who can't afford it or who is really creamed by paying the child support gets no exemptions and certainly does not get to deduct that child support. So the tax burden on the father again is essentially a penalty where the money comes in tax free to a wealthy household. I know—ask me that at the break—but I think a solution here that would help to decomplicate things would be instead of presuming or creating the presumption that you have paid more than half of the support if you pay at least \$1,200, you could simplify this by allowing the exemptions to the father if he pays more than that amount. In other words, remove this question of whether or not you've paid half of the support.

One of the things this creates is the necessity for two audits. Anytime both households claim the exemptions, you have to audit both households. You could cut the cost to the Internal Revenue Service and simplify the taxation process just by having a cutoff and saying, OK, pay more than \$1,200 and you get the exemption.

In order to avoid inequity, I think at a certain point that income probably should be deductible, but that gets complex enough that it would probably tend to complicate the process.

There is one more thing that I felt as a taxpayer I should bring up at this hearing and that is this: About 4 years ago I had had inadequate withholding from my wages so that I owed money at the end of the tax year. At that same time having claimed exemptions for my child support, I was audited and the audit came up with approximately \$550 owing. I felt that it was to my advantage interestwise to go ahead and pay the tax that I owed for the previous year's employment and I received at the same time a bill for taxes \$550.

I sent them \$100 with a note saying that I didn't have it but I would pay it within a short time. I received on printed Internal Revenue forms threats of garnishment, attachment and so forth.

Now, it strikes me that in a system which is supposed to be a voluntary taxation system, a system where we are supporting our own Government, that to treat an individual this way is not only inappropriate, it is downright foolish. For instance, if a company, Sears Roebuck store, any company trying to deal with the public were to treat its customers that way, if they paid \$100 toward a \$500 account, they wait. They realize that people have trouble meeting their obligations sometimes but if they're making an earnest effort, that should be enough.

But to immediately pounce on the person—you lose a customer. With the Internal Revenue Service, we don't have an alternative. And I think that in these times of inflation and times when taxation becomes more and more of a burden, that perhaps it would be appropriate for the Internal Revenue Service to review its own policies and perhaps adopt a more public relations minded approach to collecting taxes particularly when there has been no history in difficulty in collecting them and so forth.

Senator HASKELL. Now, on that garnishment question, it seems to me that we had hearings a couple of years ago which changed the law in that regard? We had this problem come up again and again, and—I see the Internal Revenue people nodding their heads—my recollection is we changed the law so that now garnishment is used much more sparingly. Am I right, sir?

Mr. COPPINGER. Within the last year there has been a document published by the Internal Revenue Service dealing with new policies and new practices in connection with collecting delinquent accounts.

Had the situation that the witness described occurred within the last year and it was the first time that he had ever been delinquent, he would have been offered by the Service the opportunity to pay the tax in installments. So that's the substantial change—there is no change in the law, but there's a change in the—

Senator HASKELL. The Service's policy.

Mr. COPPINGER. Service's policy.

Senator HASKELL. I guess that was the result of a series of hearings just like we're having now.

Mr. COPPINGER. Right; absolutely.

Senator HASKELL. I think that that particular problem has been taken care of.

Mr. McCLUNG. OK. I did not know of the hearings or the change in policy and there was no garnishment, but to me the thing that struck me was just the approach, the heavyhanded approach to the people who are supporting the system. Since it was on a printed form, it seemed to me to be beyond—well, just a particular case.

I appreciate the opportunity to address these issues and even if everyone of them has already been addressed in the Senate—

Senator HASKELL. No; they haven't by a longshot all been addressed.

Mr. McCLUNG. Thank you, sir.

Senator HASKELL. Thank you very much for appearing.

I think we've got one more witness and then—is there something that you particularly wanted to testify to?

STATEMENT OF DICK HOLT, TAXPAYER

Mr. HOLT. Well, I just wanted to make a statement. My name is Dick Holt, by the way, and I'm a taxpayer.

I'll probably get booted out of here by everyone of these gentlemen, but you can go through all these hearings, time after time, and the only solution is to have no deductions; make a simple IBM card where everybody pays the same tax, if there's two people working in the home, one earns \$15,000 and one earns \$20,000, you total that up and the percentage on the income tax, and that does it.

We waste so much time and effort, I can't read the income tax—with 7 years of college, I'm no better off than these people who are up here. So I have to go to a tax preparer.

The point I am trying to make is I know you're up for reelection, Senator, and I know you'd get a landslide if you could get a bill through to go with just an IBM card—

Senator HASKELL. Suppose I just abolish the income tax!

Mr. HOLT. I am trying to make a realistic statement, I mean, you know, do away with all deductions and I think it is very realistic.

Senator HASKELL. Thank you for your comments, Mr. Holt. I would like to hear the next witness and then if you have further comments, I'd like to hear them.

Our next witness is A. Marvin Strait who is president-elect of the Colorado Society of CPA's.

Mr. Strait, glad to have you.

STATEMENT OF A. MARVIN STRAIT, PRESIDENT-ELECT, COLORADO SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS

Mr. STRAIT. Thank you, Senator, and I appreciate the opportunity to address you at this hearing.

I will keep my comments just to one particular area of the 1976 Tax Reform Act so that we don't get too far afield and I am addressing the area of the administrative provisions in that law.

There are a few parts of it that I would like to address, one in particular. That law had a code section 6694 that imposes penalties for negligence on the part of the tax preparers and it says if any part of any understatement of the taxpayer's income tax liability is due to the income tax preparer's negligent or intentional disregard of rules and regulations the penalty will be \$100 per return. They indicated that rules and regulations include the Internal Revenue Service rulings.

Senator HASKELL. Now, let me stop you there because just the other day, the other day being about 6 or 8 weeks ago, the Finance Committee adopted an amendment, which I proposed, which excludes rulings from the category or rules and regulations.

Mr. STRAIT. I knew that you on the Senate floor had also disavowed the fact that rulings should be included in this and I am glad to hear that.

They did allow that in a good-faith dispute by a tax return preparer regarding an interpretation of the statute, that an exception could be allowed and therein lies the problem. There were some con-

ficting opinions at that time regarding the requirement to flag items on the tax return regarding anything that might be questionable.

As I understand it the Senate Finance Committee would have required the preparer to clearly set forth in the return anything that might be interpreted as a disputed issue. The IRS Commissioner in an address on May 24 of last year indicated that the preparer must disclose questionable return positions; however, since that time the Commissioner has stated that he intended something more limited than a literal interpretation of what he had said.

Presently, as I understand it, it is down to a facts and circumstances decision regarding whether or not there was a good-faith position. The determination will be made by the Internal Revenue agent at the time the audit is underway and this appears to me to put the tax preparer in a conflict of interest I guess, his versus the—

Senator HASKELL. Wait a minute. Does the law say "an intentional," didn't I hear you use the word "intentional disregard?"

Mr. STRAIT. Well, there is another penalty for a willful understatement, that's \$500.

Senator HASKELL. Read the \$100 business.

Mr. STRAIT. The \$100 is an intentional disregard of rules and regulations.

Senator HASKELL. An intentional disregard. OK, I just wanted to stress that, an intentional disregard. Now, if you intentionally disregard rules and regulations, as I would see it, as long as you say this is the opposite to regulation such and such, you're not going to get your penalty as long as you've stated on your return that you disagree with regulation zero; am I correct?

Mr. STRAIT. That is correct.

Senator HASKELL. Now, what is wrong with that?

Mr. STRAIT. Well, Senator, the tax law has more gray area than black and white. We've heard a lot of testimony today regarding the complexities.

Senator HASKELL. It is an intentional disregard, not that you just goof it.

Mr. STRAIT. No; I'm saying you intentionally disagree and therefore, as an attorney you've represented clients before, and it is probably not considered the best form to tell the adversary where the weakest parts of your case are.

The taxpayers are in a position of having their tax preparer being a policeman for the Government, in effect, to announce to the Treasury where all the weakest positions in the tax return are.

Senator HASKELL. What would be your recommended solution?

Mr. STRAIT. First of all, I want to understand that we should have fair taxation, and the tax preparers should file in an ethical manner and at no time should they ever file a return that they know to be wrong. Now, with that going, we have many professionals who deal in their businesses in the same manner, whether they be doctors or lawyers; they pass exams; they have ethical standards and they have peer reviews and they do the kinds of things to maintain some kind of quality control. At the same time, they do not require those professionals to get out the weakest points of any case they have on the first blast.

Senator HASKELL. What is your recommended solution?

Mr. STRAIT. My recommended solution would be something in the area of regulation as opposed to legislation, where they could have—you already have people who take the examination, you have CPA's, you have attorneys who have taken the examination, you can strengthen the code of ethics and you could have some peer review as opposed to having laws where the preparer is a policeman for the Treasury, where he is the bird-dog and points out everything that they should be keying in on.

Let me carry it just a little further. We have already heard of the complexities the tax preparers have, taxpayers have, in trying to get their return prepared. As a result, they go to the tax preparer to help them.

Now, if the tax preparer is shackled or at least neutralized so he cannot represent them in their best interest and he cannot take the benefit of the doubt in these many gray areas to their advantage without risking his own penalty, then we have neutralized the one person they have to stand up for them.

Senator HASKELL. I think, Mr. Strait, I might make a statement on the record that I disagree with you. I feel that it is a protection to the public that this section be put in. In the extreme, some tax preparers could flout regulations and then maybe 3 years later a Note of Deficiency comes to the poor taxpayer, stating he owes a number of dollars. There is nothing which keeps the preparer from giving a temporary benefit to the taxpayer; the Internal Revenue Service would collect the deficiency. That provision was put in there for the protection of a broad group of taxpayers. There has been testimony that some preparers would induce people to come to them by in effect guaranteeing them that they'd pay less tax if they went to them than to some other preparer; this was really for the protection of the general public. I personally can't see anything wrong with saying—I've disagreed with lots of regulations of the Internal Revenue Service and I'm sure you have—and I see nothing wrong in saying, "This is in disagreement with regulation such and such." I don't think that's giving your case away. I think that's just part of the disclosure system. Obviously, however, this is something that you and I don't concur on. I felt it was too much to expect preparers to know all the public rulings, I felt that was too much. But to eliminate the section you are talking about, would be to eliminate what I consider a great protection to the general public. I'm afraid it is just a difference of opinion.

Mr. STRAIT. OK, Senator, I respect that. What I am trying to say is that I'm certainly not condoning any unethical practices and certainly I abhor the fact that there are people who purposely file wrongful tax returns, but what I am saying is with this profession as in others there could be some standards established, there could be peer reviews, there could be some regulations. It just concerns me that we instead took the tack of making the tax preparer a policeman or an advocate of the Government in terms of pointing out the many, many gray areas.

You know, the Internal Revenue Code itself is difficult to read and interpret. I think the Internal Revenue agents themselves will

disagree on many of them and there are so many gray areas that it would seem that the filing of the tax return is at best honest people trying. If we can regulate to improve that, fine; but to try to start a situation where they would become—I use the word—policeman, certainly somebody that is representing the Government's interest as well as the taxpayer, then we get to the position where taxpayers who are paying somebody to look after their interests, they've lost the final person to turn to in the area of disputes.

I think we can live with this law, but it can grow from there and I think it represents a direction that has the preparers, the people out there—there are many honest ones, too—who are trying to do a good job and they are the people, with hindsight, who will be penalized by the Treasury in some of the many gray areas of the law. That's the point I was trying to make.

Senator HASKELL. I understand your viewpoint. I think we disagree on some of the factual bases.

I might ask, Mr. Coppinger, do you know how many penalties have been asserted under this provision that Mr. Strait is talking about, in your region?

Mr. COPPINGER. For the willful and negligent?

Senator HASKELL. Yes.

Mr. STRAIT. Not the willful, just the negligent.

Senator HASKELL. The intentional disregard.

Mr. COPPINGER. I don't know of any. There may have been some that have been proposed, but very, very few. In fact, this subject has been discussed very often with professionals, preparers and other people. In fact, I've got a letter in the file from the Arkansas Society and the regulations very clearly state what you stated, Senator, it says, for example, if a preparer reasonably takes a position in good faith that a Revenue ruling does not accurately reflect the rule, the preparation of a return on a claim for refund by the preparer in conflict with the ruling is not a negligent or intentional disregard of the rule.

Senator HASKELL. And this would be true of regulations, too, I presume.

Mr. COPPINGER. That is in the regs.

Senator HASKELL. Well, I just wanted to get on the record what the practice was in your region.

Mr. COPPINGER. We have tried to make it very clear—we haven't made it very clear—but we have tried to make it very clear just as you said, that we believe that Congress put these provisions in the law to curb some very bad abuses, for example, where a taxpayer told a preparer that he had two dependents but the preparer put four down, and that was happening. And our intent in applying the law is to do it as carefully and as cautiously as we can, to use it only in situations where there is obvious abuse by the preparer.

Senator HASKELL. Thank you.

Mr. STRAIT. OK.

Senator HASKELL. Do you have anything further to add?

Mr. STRAIT. That does answer my question. I guess I'm concerned about the direction, Senator. If that's as far as it is, I would still be in favor of any rules and regulations to improve the preparation.

I'm just concerned that sometimes the 20/20 hindsight, in terms of everyone sitting back and looking at what somebody might have done in some of these areas when he's trying to represent his client's best interest.

Mr. COPPINGER. I understand your concern and I share it and I asked Mr. Mihlbachler while you were talking to get with you and members of the Colorado Society and see if we can add some comfort to your concern.

Mr. STRAIT. OK. Thank you.

Senator HASKELL. Thank you, Mr. Strait, very much.

Is there somebody else in the room who would like to testify?

**STATEMENT OF ROBERT J. DANIEL, RETIRED COLONEL,
COLORADO SPRINGS, COLO.**

Mr. DANIEL. Yes; I would.

My name is Robert J. Daniel and I live here in the city of Colorado Springs and I am a retired colonel, my wife is a schoolteacher, I have my pension, my wife has her salary, we both have bank accounts, we have savings and loan accounts, we get a little interest from them, and all that is taxed as ordinary income.

Last year she and I had so much of this, married, we paid the Government \$7,000. At the same time. Mobil Oil Co. paid nothing, absolutely nothing. I decided to do something about it. I looked into the income tax system, I'm an engineer, I have made out my own income tax all my life and I've never been called by the IRS, perhaps I know a little math. I found that when I looked at this income tax system, I saw a plethora of allowances and deductions that favored the few at the expense of the many. I saw other allowances and deductions that promoted fiscal policies that were foreign to the fundamentals of the free enterprise system. The Government has no business using our tax money to favor one company or a group of companies with my tax money that is income tax. That money is for the operation of the Government.

As I tried to indicate, the kind of money that I got was the worst kind of money to get because it was taxed at the highest rate. Had I been a wealthy individual or a company like Mobile, there are investments that I could have gotten into that I can't get into with the money that I have because they're set at such a value that I don't have that kind of spare cash, a certain minimum is required that even if I had that specific amount I'd never get in anyway. So I feel sincerely that you're not going to simplify the forms until you simplify the tax system.

As a matter of fact, it is the complexity of the tax system itself that is the source of all our problems.

I wrote both you and Senator Hart a letter of a simplified system that I developed that would correct all these inequities that I have alluded to. For some reason, your staff chose not to answer me. Senator Hart's staff told me he was intrigued with my system and asked me how could I possibly implement it.

I realize the problems associated with trying to improve the tax system is going to be very great when we have Senators like Senator

Russell Long in the Senate heading your committee, Representative Al Ullman in the House doing the same thing who everytime they revise the system, a person like me pays more.

In my system, in my letters to you and to Senator Hart, I addressed three classes of taxpayers: One, individuals and families; two, commercial enterprises; three, religious and charitable institutions. For all of these classes, I requested that their gross income be computed by all their income no matter what the source. I also had a sane reasonable deduction for each of these classes which I will explain later what those deductions are for each of them, where all you had to do was subtract the deduction from your gross income no matter what the source and multiply it by a fixed rate.

Before defining my deductions, I must digress a little bit to point out that there is a fallacy in public opinion by those who do not understand the difference between rates and absolute dollars about whether or not a fixed rate is regressive. I think it is not. The actual increasing rate with income is actually confiscatory.

Why do I say this? The reason is that a given percentage of a large number of dollars is a larger number of absolute dollars than that same percentage of a small number of dollars. For example, 1 percent of a billion dollars is \$10 million dollars—1 percent of \$1,000 dollars is \$10. To say that another way, the billionaire's profit or less of 1 percent has to be taken care of by \$10 million, the thousandaire's only by \$10.

Now the fixed rate for all the systems that I have determined from much reading, much playing with a calculator, much looking at the World Almanac and a few other things, will come out somewhere around 12 percent. Mind you, I didn't say it was 12 percent; I said it was approximately 12 percent—it might be 13, it might be 11, it might be 14—but it is around in that area, because I don't have all the facts at my hands as perhaps your Finance Committee has.

The deductions that I propose for the individuals and the families was the Federal poverty limit, whatever it is for the individual or the family. It is absolutely silly to be giving those people money to bring them up to that Federal poverty limit maximum and then take the money away from them. So everybody should get that deduction and that's a fair one and it's the only one that should be given to individuals and families. I think it is somewhere around \$2,500 plus for individuals and \$5,000 plus for the family. That deduction subtracted from your gross income, multiplied by 12 percent, simple tax system, even the dumdums could understand it with a little help from some of these good people who tried to help.

For commercial enterprises, the deduction should be—you have to think of two types of companies—one who starts out in business and one which is an existing corporation already. In the new business, the initial cost in setting up their business and the annual operating costs that they have for that year should be deductible. For subsequent years, then they should also still be allowed to figure their annual operating costs and they should be given credit for those internal or external changes to their facilities that result in an increase in jobs.

On the other hand, if these internal or external changes to their facilities results in a loss of jobs as we see happening so many times today, they should be penalized strictly by a factor that would be whopping and determined on the basis of each individual job loss.

For the churches and the charitable organizations, yes, they should have a deduction for their strictly religious and charitable activities. But as you know, many religions are involved in competition with other businesses and have strictly business activities. These activities should be taxed just the way as any other business, and they should not be allowed to be tax free as they are.

I have a copy of this letter for the record and I hope you will put it into the record.

Senator HASKELL. It will be received and reproduced.

Mr. DANIEL. I also have a copy of the letter that I answered Senator Hart when he asked me how to implement this.

Senator HASKELL. That will be received and reproduced also.

[The documents referred to follow:]

COLORADO SPRINGS, COLO., September 1, 1977.

HON. GARY HART,
4213 DSOB,
Washington, D.C.

Dear Senator Hart: The Byzantine complexities of our national income tax laws encourage a plethora of policies that directly promote the concentration of economic power at the expense of economic justice for the wage and salary earners plus the pensioners. Reform of this sorry scheme of things can only be done through Congressional action that closes all of the loopholes in our income tax laws; otherwise, the moneybags, greedheads and tax-dodgers will, with the help of their hired economic and legal advisers, simply move capital from one tax shelter to another.

Those who do not understand the difference between a rate and absolute dollars look upon a flat tax rate for income tax as being regressive. The fallacy in this viewpoint is that a given percentage of a large number is much larger in absolute value than the same percentage of a small number. For example, one percent of \$1,000,000,000 is \$10,000,000; one percent of \$1,000,000, \$10,000; one percent of \$100,000, \$1,000; etc. Thus, for every one percent increase in income, the billionaire would have to pay an additional \$10,000,000; the millionaire, an additional \$10,000; and the hundred thousandaire an additional \$1,000. For fairness to all income tax payers and for the reasons stated in this paragraph, I propose a flat rate for the following income tax proposal:

1. For individuals and families:
 - a. Report all income, no matter what the source.
 - b. The only deduction to be the value of the federal poverty level for the individual or the family as applicable.
 - c. Tax is the difference between 1a and 1b multiplied by a flat rate (FR).
2. For commercial enterprises:
 - a. Report all income, no matter what the source.
 - b. For a new business, initial costs in setting the business up plus the annual operating costs to be the only deductions. Once a business is established, deductions after the first year will be allowed only for annual operating costs and those internal or external additions to facilities that lead to additional jobs; internal and external additions that reduce jobs should be penalized by a factor based upon the number of jobs lost.
 - c. Tax is the difference between 2a and 2b multiplied by FR.
3. For religious institutions:
 - a. Report all income, no matter what the source.
 - b. Religious facilities and their annual operating costs to be exempt from income tax. However, deductions for commercial activities of religious institutions should be determined in the same manner as for commercial enterprises in paragraph 2b, above.

c. For the commercial activities of religious institutions, the tax is the difference between 3a and 3b multiplied by FR.

The flat rate (FR) should be the same in the three categories specified above, and it should be set at a value to obtain the revenue required by the federal government. I believe that the proper calculation of such an FR would approximate 12 percent.

In closing, I hope that the Democrats in the Senate and the House of Representatives will see merit in my proposal for an income tax system that would eliminate the legalized fraud the present income tax system represents. This hope is based upon the fact that the Democratic Party is supposed to be the party of the people, and not the party of economic special interests.

Sincerely,

ROBERT J. DANIEL.

COLORADO SPRINGS, COLO., November 21, 1977.

HON. GARY HART,
Senate Office Building,
Washington, D.C.

Dear Paul: I am sorry that you were in a conference when I dropped by on the morning of November 14, 1977. I had hoped to discuss with you the income tax reform proposal contained in my September 16, 1977 letter and your October 26, 1977 response to my letter.

Since you expressed interest in your letter about how I would go about implementing my proposal, I suggest that the Senator:

1. Contact the President and remind him of his campaign promises with respect to income tax reform; namely:

Removal of the preferential treatment of capital gains.

Elimination of export tax subsidies.

An end to the deferral of taxes on U.S. corporations' overseas earnings.

Curtailement of deductions for business "martini lunches" and for first class air travel.

2. Ask the President to include in his tax package at least what he promised for tax reform during his campaign.

3. Consider that there are other income tax reforms worthy of consideration and implementation by the President and by the Senators on the Senate Finance Committee; such reforms include, but are not limited to, the following:

The President's campaign promise regarding removal of preferential treatment of capital gains should require that unrealized capital gains at the death of the owner not be inherited by someone else without a tax on the market value of the unrealized capital gains.

Tax interest on state and municipal bonds the same as ordinary interest and ordinary income are taxed.

No more tax-exempt, industrial bonds.

Tax the net income of the commercial activities of churches and religious institutions the same as ordinary commercial activities are taxed.

Tax "non-profit profitable" institutions such as the American Medical Association and the American Bar Association the same as ordinary income is taxed.

If wealthy individuals, social clubs, foundations, fraternal associations, etc. want to maintain plush real estate holdings, let them pay the same taxes as those of an ordinary homeowner or small businessman.

To break up the aristocracy of capital, impose a dollar limit, say \$500,000, for any inheritance by any one person.

An end of charitable contribution gimmicks that enrich the wealthy.

No more "depreciation" and other "intangibles" write-offs. Except for the costs that a business actually pays out-of-pocket, allowances for non-existent "depreciation" costs must end.

A shaping of a tax policy that discourages and punishes increased concentration of economic power (an oligopoly tax), loss of jobs due to automation (a "per capita unemployment" tax), and all moves to other countries of production of equipments by American companies (a "selective import" tax on the products of these companies so high that manufacture of their products would be more profitable in the U.S.)

A "social cost" tax on those businesses that inevitably impose an increased burden on others; namely, a "pollution" tax on automobiles, power plants,

chemical companies, etc., a "reclamation" tax on despoliation of land such as that caused by mining companies, and a "health" tax on products that poison man and his environment (cigarettes, food additives, heavy metals, noise emitters, etc.).

Close the tax loopholes protecting bank profits. Excess bad debt reserves, favored capital gains treatment of bank profits—such tax breaks add to the tax burden of the wage earner.

Tax the profits hidden by life insurance companies in tax-free reserves.

Impose a tax policy to discourage "red-lining" by banks.

The reforms specified in the preceding paragraphs, either all or in part, should be easier to get through Congress than the drastic reform I recommended in my September 6, 1977 letter. However, once the majority of the income tax reforms listed above are implemented, my more drastic proposal could possibly be considered more acceptable. In closing, I hope that Senator Hart and his staff will see sufficient merit in the contents of this letter to start the tedious process needed to bring about at the federal level a simple, effective, fair, equitable and just income tax system.

Sincerely,

ROBERT J. DANIEL

Mr. DANIEL. I listed a lot of things that you could do to make this system, which I realize would be hard to get through Al Ullman and Senator Russell Long, but would make that more palatable if you implemented what is in this letter.

I won't bore you with all the things, but it includes what President Carter said, what the Democratic platform of 1976 said, and some other things that I said from my own looking into this because I was an angry taxpayer.

Thank you for your consideration. Are there any questions?

Senator HASKELL. Thank you, Colonel. I don't think there are any questions, but I have some comments.

First, I agree with you that you've got to be very rich not to pay any taxes; that's without question. And the tax laws, as I'm sure anybody who is familiar with them knows, are stocked full of special deals for special people. If you ever are going to get rid of that system, it is a simple question of votes; and the votes aren't there.

But what we're trying to do at this hearing, is in the realm of the possible, that is, taking the things that affect a large group of people and trying to help that large group of people; at least make it easier for them to comply.

I will look with a great deal of interest at your suggestions, Colonel, and I thank you for being here. Thank you very much.

Mr. DANIEL. I must say again it is the complexity of the income tax system itself that is the basis for the problems that people have with filling these forms out.

Senator HASKELL. Thank you, sir. Thank you for coming.

There was one gentleman back there, I believe, and then I think we've got to wind the hearing up. Would you come up, sir?

Mr. LUNDSTROM. Well, I am a Denver mailman.

Senator HASKELL. Could you give your name?

STATEMENT OF ROBERT LUNDSTROM, MAILMAN

Mr. LUNDSTROM. Bob Lundstrom. I have four children still at home, oldest 16, and one income in the family; that by way of background.

Regarding the income tax problems for the poor, it seems to me just to raise the floor below which there are no deductions would

solve the problem like—I don't know many figures but say one person, \$5,000; nothing is deducted. Two persons, \$6,000; nothing is deducted. On up to six, \$10,000; nothing deducted. So no complicated process of getting it back.

I personally would be glad to pick up a share of that; in other words, I would be glad to pay more income tax if I could be sure that it went for that purpose. If it didn't go for that purpose, I wouldn't be interested, and I just wanted to tell you that.

Senator HASKELL. Thank you, Mr. Lundstrom, very much indeed. I think we'll have to adjourn the hearings now and the record will stay open for 2 weeks for the additional material to be sent.

Thank you very much, all of you.

[Whereupon, at 12:30 o'clock p.m., the hearing was adjourned.]

[By direction of the chairman the following communication was made a part of the record:]

PREPARED STATEMENT OF HENRY W. BLOCH, PRESIDENT, H & R BLOCK, INC.,
COLORADO SPRINGS, COLO.

Mr. Chairman: I am Henry W. Bloch, President and chief executive officer of H & R Block, Inc. and I very much appreciate the opportunity to appear at these field hearings of the Subcommittee on Administration of the Internal Revenue Code of the Senate Finance Committee, and offer my comments regarding tax simplification. Upon completion of this statement I will attempt to answer the questions that you might have.

However, before I begin, I would like to tell you something about our Company and the way it operates. H & R Block is a New York Stock Exchange company with its international headquarters located in Kansas City, Missouri. During the current tax filing season, approximately 8,150 conveniently-located H & R Block offices are operating throughout the United States and in certain foreign countries. These offices are staffed with over 35,000 specially trained individuals.

During the last tax filing season, our offices prepared more than 9 million United States individual income tax returns for an average fee per customer of approximately \$20.

I mention these facts not to promote my company, but to illustrate that there are organizations in the private sector of our economy which are supplying reasonably-priced quality tax return preparation services to the American taxpayer.

As president of one such organization, I am firmly convinced that reasonably-priced and reliable tax return preparation services are integral to the United States tax collection system, for without these services our income tax system would not work fairly for both the taxpayer and the government.

By letter dated March 13, 1978, I was invited to express my views on certain subjects and my following remarks are addressed to the specific questions raised in that letter.

PROBLEM AREAS FOR TAXPAYERS FILING THIS YEAR'S FEDERAL INCOME TAX RETURN

I believe our tax system, although not perfect, is the most equitable in the world. In order to be equitable, I believe that there must necessarily be some complexities and thus, as with any system of any kind, problems can and do arise that cause difficulties for taxpayers and tax preparers. Although not all of these are readily subject to solution, I suggest that there is one approach that is within the power of Congress which could make our tax system work more efficiently and at the same time give taxpayers a sense of security. This approach is a simple one—declare a moratorium on changes in the Internal Revenue Code and individual income tax forms for at least three years. I suggested this to the Subcommittee on Oversight on July 26, 1977 and again on December 13, 1977, and I urge it again.

I believe that we in H & R Block are sensitive to, and have extensive knowl-

edge of, the American taxpayer's feelings and reactions. This results from our contact with millions of taxpayers from almost every walk of life and from the extensive surveys which we have either conducted ourselves or sponsored through independent firms. I am firmly convinced, based upon such contacts and surveys, that the major cause of the American taxpayer's frustration with complex tax laws is the fact that both the law and forms seem to change each year. The taxpayer thus approaches his tax return with trepidation and almost utter bewilderment because he will have to spend considerable time each year relearning the tax return form and its instructions.

Obviously a possible source of reassurance and comfort could be last year's tax return. However, for the past few years, Form 1040 has been changed, as it was again for 1977. Quite often the changes are confusing and do not relate to changes in the law. For example, in Schedule B of Form 1040 for 1977, the columns for reporting dividends and interest have been reversed from the 1976 Form 1040. This is an example of the kind of change which tends to confuse taxpayers without any apparent meaningful purpose.

In addition, we have determined that, for this year, there are other problem areas that often cause taxpayers difficulty in the preparation of their tax returns. The following are but a few examples:

(a) *Standard deduction (zero bracket amount)*.—One change that was recently made is the manner in which one computes his tax. Under the rate tables, the standard deduction is now confusingly renamed the "Zero Bracket Amount". Since this deduction is built into the new 1977 tables, persons who itemize are required to adjust the deductions before computing their tax. This is an entirely new change from prior practice and, of course, taxpayers are making mistakes.

(b) *Disability income exclusion*.—Another area of confusion is the irrevocable election not to exclude disability income. Is it reasonable to expect that low or middle income taxpayers will be able to obtain the sophisticated tax advice needed to help them make the intelligent and irrevocable decision required? I think not.

(c) *Multiple rates*.—The Internal Revenue Code provides four separate rate schedules: Married Filing Jointly, Married Filing Separately, Unmarried and Head of Household. Problems arise not only when a taxpayer attempts to locate the proper rate schedule, but more importantly, when the taxpayer tries to determine which schedule should be utilized. For example, the question of whether a taxpayer qualifies as a Head of Household is not an easy one. Because this category is not well known and because the qualifications for this category are not easily understandable, I believe that a substantial number of taxpayers each year lose the benefits of filing as a Head of Household.

(d) *Income averaging*.—I think Schedule G is one of the best designed tax forms available, when viewed in light of the complicated tax law provisions that relate to this form. However, because of the law, background information relating to the four years prior to the taxable year must be accumulated and utilized. Such information is often difficult to develop. Moreover, the rules are difficult to deal with when the taxpayer's marital status has changed or the taxpayer was a student during the base period.

(e) *Dependents*.—We often encounter difficulty in determining whether a taxpayer can claim another individual as a dependent. For example, if a taxpayer has a working son or daughter, this fact often causes problems for us because we must determine how much the taxpayer spent on the child and also how much was spent from other sources to support the child. This information is often outside the realm of the taxpayer's knowledge and maybe even that of the child. Obviously, this problem arises because of the one-half support test in the Code.

(f) *Medical expenses*.—This is another area which is complicated. First, there are separate limitations on the deduction for the costs of medical insurance, prescriptions and drugs, and other medical services. However, notwithstanding this, we have sensed that the public feels reasonably comfortable with these provisions because they have existed relatively unchanged for many years. As such, we find that the public deals with this area of the Code with some ease. This, I believe, illustrates a point; that is, the taxpaying public is able to master relatively complicated tax law provisions when given sufficient time to learn and feel comfortable with the law.

RECOMMENDATIONS FOR SIMPLIFICATION

To emphasize again the point I made earlier, I believe that for a period of at least three years, Congress and the IRS should refrain from making any changes in the tax laws or forms that affect individual taxpayers. During this moratorium period, Congress will be better able to more carefully review all proposed tax law changes to determine not only their financial impact on the economy, but also whether such provisions add complexity to the law.

In addition, we all have heard for many years about tax simplification. Self-interest aside, I am now more firmly convinced than ever that a complex society such as ours must necessarily have complex laws, especially tax laws, if we are to treat taxpayers equitably. As our society has changed and become more sophisticated, so too have our tax laws. Implicit in all of this is the fact that Congress wants to treat individuals differently depending on their circumstances. If so, then by definition we are bound to have something more than an easily readable Internal Revenue Code.

It seems to me that Congress wants and believes it must draw fine distinctions and to specify the details in the Internal Revenue Code. I, for one, agree with this approach because it provides the American taxpayer with some certainty about the tax consequences of his actions. However, the minute Congress draws distinctions, provides limitations, and grants exceptions, then most assuredly complex and lengthy tax rules result. Congress does this in the name of tax equity and I do not believe this is wrong. However, what I cannot understand is why members of Congress appear to agonize over it.

Apparently, there is a common feeling that the average taxpayer should be able to understand the tax law, regulations, rulings and court cases and so be able to prepare his own tax-return. If he cannot, then somehow Congress believes it has failed. Moreover, the mere existence of successful companies, such as H & R Block, are painful reminders of this failure.

I suggest that it is time to question the major premise. Has Congress really failed if the ordinary taxpayer goes to a commercial tax return preparer and for an average fee of \$20 frees himself of an undesirable task to engage in other, more pleasurable activities? As I replied once to a legislator on this very point, "I too could mow my lawn, but I choose not to and so I pay someone to mow it for me." I believe preparing one's own tax return is as pleasurable a task to that individual as mowing one's own lawn.

However, even assuming the American taxpayer would like to prepare his own return, is the average taxpayer truly interested in tax simplification at the expense of tax equity or tax reform? I can say with confidence that the answer is unquestionably *no!* The American taxpayer will not support tax simplification at the expense of tax reform or at the expense of taking away his time-honored and cherished tax deductions. Just this past summer, our Company commissioned a study by the Roper Organization to determine the public's true attitudes toward the federal income tax system. Before engaging in the study, however, we suggested that the Roper people confer with a number of government officials to obtain their opinion about areas that should be covered in the study and the type of questions that should be asked. This was done and thereafter, the study was conducted by thorough in-depth interviews of over 2,000 individuals representing a statistically true cross section of the country. The interview results were then scientifically analyzed and from these analyses, the Roper Organization drew conclusions.

The study, the first in-depth opinion survey of the attitudes of the American taxpayers toward their tax system, provided interesting insights into the feelings and desires of the American taxpayer. I would like to share some of these conclusions with you:

(1) "Despite a general indictment of the income tax system as unfair, and a high lack of understanding of how to fill out a tax return, demand for tax reform and simplification has relatively low priority in the general scheme of things."

(2) "Posed with the direct question of which is more important, tax reform or simplification, tax reform is called for by a two to one ratio."

(3) "... in response to the various [tax reform] proposals put forward, the public again demonstrated lack of understanding about the tax system."

(4) "... people go for anything that appears to give them more of a tax break and reject those things that seem to offer the possibility of higher taxes."

(5) "... findings of the study have shown that it is the low tax rate, not simplification that attracts people, and subsequent findings on the issue of broadening the tax base confirm this."

(6) "When presented with two specific alternative tax plans that would accomplish [broadening the tax base and lower tax rate] (as well as achieve simplification) the public rejected them in favor of the current system by a two to one margin."

(7) "... simplification seems to hold little weight against the giving up of familiar deductions and exemptions."

(8) "... in terms of attention by the government—reducing unemployment, tax reform and simplification, or reorganizing the government. Demand for tax reform and simplification is relatively low."

(9) "Among no subgroup of the population was there a strong demand for tax reform and simplification."

(10) "While there has been a great deal of talk about the importance of simplifying tax return forms, when the public was asked whether simplification or reform should have first priority, the answer among the general public was for reform by a 2 to 1 margin."

(11) "Tax reform was considered more important than simplification regardless of whether people did their own return or had it done, which form they used and whether they took the standard deduction or itemized deductions."

These are only a few of the interesting conclusions drawn by the study. Although we have provided copies of the study to each of your offices, we have additional copies on hand for your review.

In recent years, we have seen Congress explore two courses of action to reach the goal of tax simplification. First, Congress has steadily increased the standard deduction over the years and second, Congress has reviewed and considered the requests of the Internal Revenue Service to provide greater taxpayer assistance.

Regarding the increase in the standard deduction, my views are that this is truly an approach that causes our tax system to be regressive as it serves to treat in the same manner all persons with the same adjusted gross income, without regard to their individual circumstances. The question is why use such a meat-ax approach? Moreover, I believe that many taxpayers, when beginning to prepare their own tax return, fail to attempt to itemize because of the existence of the standard deduction even though they could itemize if they were willing to dig deeper into their records.

Typically, the answer has been that this approach saves government expenses. This may be true, but isn't the purpose of the tax system to collect taxes equitably rather than merely in the most effective manner? No doubt we all could devise a much more efficient system of tax return than we currently have, but would such a system be as fair?

The other approach considered by Congress has been to allow the Internal Revenue Service to provide more taxpayer assistance and thereby reduce the tax return preparation burden on the average taxpayer.

At first blush, this approach may appear to solve the so-called complexity problem, but upon closer reflection, this approach has numerous defects. To begin with, few taxpayers have attempted to avail themselves of this free service, even though the IRS has publicized its existence for several years. I believe this reticence by taxpayers results for a number of reasons:

(1) Taxpayers prefer to retain an independent third party with whom they can openly discuss their tax problems.

(2) Taxpayers view the Internal Revenue Service as their adversary and not as their tax adviser.

(3) Taxpayers in the past have become confused and upset when their tax returns, which were prepared with the assistance of the IRS, were audited and deficiencies assessed.

(4) When audits occur, taxpayers need assistance from a non-adversary party who will explain to them their rights, their obligations and whether their positions are proper.

In addition, taxpayers do not like the inconvenience of going to the IRS for assistance because:

- (a) the IRS does not maintain convenient locations;
- (b) the IRS is generally not open in the night or on weekends;

(c) the IRS personnel often are necessarily impersonal with long lines of people waiting for assistance; and

(d) IRS offices do not prepare state or local tax returns.

Notwithstanding this, the question raised in my mind is can the Internal Revenue Service effectively prepare (not merely assist taxpayers in the preparation of) 10,000,000 tax returns at a cost of \$200,000,000. Simply stated, will the government be able to be as efficient as private enterprise which is highly profit motivated.

I have my doubts. For this reason, I have suggested that if Congress wants to provide tax return preparation assistance to taxpayers, that Congress should allow private enterprise to do the job and subsidize the cost. This could be done if Congress enacted a tax return preparation tax credit, limited in amount. Instead of subsidizing tax return preparation by using government employees, why not subsidize the return preparation services and utilize the services currently being offered by private enterprises?

To the best of my knowledge, the concept of this credit was first discussed by the Government Accounting Office which supported at least a Congressional review of the subject. The following is an excerpt from the GAO's report of April 1, 1976, at page 39.

"* * * we believe that the [tax return preparation] tax credit idea warrants more attention than it has received thus far. It focuses directly on the problem of the lower income taxpayer who has difficulty in preparing his own return and who is less able to pay to have it done. It offers some advantages over wholesale return preparation by IRS. And it lies somewhere between the extremes of maintaining the status quo and a significant simplification of the tax law."

By means of a tax credit, low income taxpayers would be given tax return preparation assistance through the device of a tax credit that can be viewed as a federal grant.

Such a credit would provide the tax return preparation assistance which Congress and the IRS believes is needed, at what I believe will be a lesser cost to the government, since it will be done by persons who are independent, profit motivated and readily available. As has been shown in other fields, the private sector of the economy is often more efficient in providing service than is the public sector.

I believe the Internal Revenue Service should consider only what it does best and that is administration, collection and enforcement of the tax laws.

USAGE OF COMMERCIAL TAX RETURN PREPARERS

In your letter, you asked me to indicate whether usage of commercial tax return preparers has increased. I can only speak for our Company and, in this regard, I think the figures speak for themselves.

Our Company was founded by my brother, Richard, and me in 1955. To illustrate our growth, during the past four years H & R Block and its franchisees prepared the following number of tax returns, worldwide.

Number of Returns:

1974— 8,669,000
1975— 9,041,000
1976— 9,311,000
1977—10,083,000

COSTS OF COMMERCIAL TAX RETURN PREPARERS

You also asked whether the costs of commercial tax return preparation have increased. We understand that by this you mean costs to the taxpayer. Again, we can only speak for our Company as we know of no industry figures in regard to cost of tax return preparation. Following is the average fee charged per customer in each of the four tax filing seasons beginning in 1974:

1974—\$15.18
1975—\$17.18
1976—\$18.45
1977—\$19.95

I would like to point out that the average fees quoted above are the average per customer, which would include the preparation of federal, state and local

returns, if any. Further, I should also point out that the price increases result from increases in our schedule of charges as well as a change in the "mix" of customers, a switch from more simple returns to more complex federal, state or local returns which increase the average fee. Price increases have also been necessary for us as well as other industries due to increases in costs and all expenses, especially rents, utilities and wages.

QUALITY OF TAX RETURN PREPARATION

You asked me about the quality of return preparation. Again, I can only speak for our Company and in this regard, I am proud to say that not only do I believe that the quality of our service is the finest in the country, but our customers also apparently agree. I can say this with some degree of confidence because our Company points with pride to the high percentage of repeat customers. For example, in 1977, the percentage of customers who were repeat customers from 1976 was 80 percent.

In this regard, I attribute much of our success to our training of tax preparers in our schools. Our preparers attend one basic tax course which consists of 81 hours of formal instruction. However, many return preparers often attend the intermediate or advanced courses. Then, if they are hired by our Company, the individuals are given an additional 40 hours of formal instruction which we believe is necessary in order for the individual to learn about H & R Block procedures and the fine points about the changes in the tax law and tax forms. I am proud to say that our preparers generally remain with us for a long period. We generally expect about 75 percent of our tax preparers to return to us each year. We think this low turnover rate is remarkable considering the long time between seasons.

PROBLEMS OF COMMERCIAL PREPARERS

You asked me to indicate the problems of commercial return preparers. Obviously, there are a myriad of problems that commercial preparers must face each day. However, regarding those problems which Congress can assist us in solving, there are only two. First, we are currently dealing with the Internal Revenue Service on regulations for and administration of the tax return preparer provisions contained in the 1976 Tax Reform Act. In this connection, representatives of our Company have met with the IRS and Treasury Department officials to attempt to solve the many unanswered questions. To date, we have numerous problems, but we continue to remain hopeful that we will be able to work them out.

The other area of dialogue which we are having with representatives of the Treasury Department relates to the granting of enrolled agent status to our employees who pass Treasury's examination. To date, we have not been able to enroll any of our employees with the Treasury in order to obtain what is known as a "Treasury Card". Such a card would authorize the individual to represent a taxpayer at an IRS audit of his return. The reason our people have been denied this status (while it is granted automatically to attorneys and certified public accountants) is that our company advertises.

Although we understand that Treasury intends to issue new regulations in this area, in light of the United States Supreme Court case of *Bates and O'Steen v. State Bar of Arizona* (permitting attorneys to advertise), we believe that the Treasury Department should allow our people to become enrolled agents.

In light of the fact that these two major problems are now being discussed with various persons within the Administration, it would not be appropriate to ask you for assistance at this time.

NEED FOR FURTHER FEDERAL RULES

Finally, you asked me whether there is a need for additional federal rules affecting return preparers. In all candor, I can say no. There is no need for more rules, but rather there is need for less rules.

As you know, the Tax Reform Act of 1976 contains provisions dealing specifically with regulating tax return preparers and penalizing them for improper activities.

The tax return preparer provisions of the Act have been effective only since January 1, 1977. Accordingly, it will be several years before we will be able

to determine how effective these provisions are. Until then, we remain hopeful that these provisions will be administered properly and will not inhibit legitimate tax return preparers but rather will be effective in penalizing unscrupulous or incompetent preparers in our industry.

We note that during the 1977 filing season, the Internal Revenue Service commenced a program to enforce the new provisions. On balance, we supported this activity. However, we were and still are concerned about the problem of "overkill" in the implementation of this program.

For example, the Internal Revenue Service during the last tax season took an uncompromising and harsh position regarding the tax return preparer signature requirement. The position taken by the Internal Revenue Service severely hampered the operation of members of our industry in the legitimate functioning of their businesses. Moreover, in our view, the Service's position was unnecessary and was not required to carry out the purpose and intent of the statute and so could have been tempered with reasonable requirements. Notwithstanding our requests, we were forced to suffer through the 1977 tax season complying with this requirement. Thankfully, the regulations now do away with this requirement.

H & R Block has achieved its current position in the industry due to its ability to prepare tax returns efficiently and at reasonable prices. Our fear is that the Internal Revenue Service will impose requirements on our industry which will be meaningless and will strike at the foundation of our Company's operations. If so, we will be compelled to bring our problem to you for a legislative solution.

As an example of the problems we face, the Tax Reform Act provides that "reasonable cause" shall be a defense against the assessment of certain penalties. Under the Act, failure to sign a tax return will subject the preparer to a \$25 penalty unless such failure is "due to reasonable cause and not due to willful neglect." We are concerned that there are no meaningful standards by which one can determine "reasonable cause." The Committee Reports and the Regulations are not enlightening in this area. As a result, we fear the Company may be forced to pay substantial penalties because as a practical matter, the Company cannot contest each and every case to avoid the \$25 penalty. To illustrate, assume that despite the Company's best efforts, the Company employees fail to sign tax returns $\frac{1}{2}$ of 1 percent of the time (one out of every 200). We believe such a minimal failure rate should per se constitute "reasonable cause." However, there is presently no support for this position. Thus, with 10,000,000 tax returns, failure to sign 1 out of every 200 would result in the Company being subjected to a non-deductible penalty of \$1,250,000. Surely such a result was not intended. We therefore may have to request consideration of statutory guidelines in the area and in other areas. Clarification of the meaning of "reasonable cause", as well as "negligent disregard of rules and regulations" in the provisions relating to the tax return preparers would be helpful.

In summary, my Company's increasing volume of business over the years demonstrates a real need and desire for tax preparation assistance on the part of a sizeable segment of the public.

Our continued growth has been founded on a single premise: that reasonably-priced expert assistance in preparing income tax returns saves the taxpayer time, effort and anxiety, and at the same time assures both him and the Government that he will pay precisely what he owes, no more and no less. This assurance facilitates the job of the Internal Revenue Service in administering the nation's tax laws.

We believe the Internal Revenue Service taxpayer assistance program, although well motivated, is not and cannot be, the solution to the problem of easing the return-filing burden of the taxpaying public. The answer, we submit, lies in the private sector which can most properly and efficiently perform the task of helping taxpayers prepare all of their returns, Federal, state and local. The role of the Internal Revenue Service in this regard should be one of supervision of compliance with the tax laws.

Thank you,

HENRY W. BLOCH.

