

PREPARED STATEMENT OF
WITNESS
BEFORE THE SENATE FINANCE COMMITTEE
OVERSIGHT HEARING ON THE INTERNAL REVENUE SERVICE
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Mr. Chairman, I thank you for the opportunity to appear before you and this Committee today. I have spent the last 25 years either working for the Internal Revenue Service Collection Division or representing taxpayers before the IRS Collection Division. I have collected taxes from thousands of taxpayers and I have also represented hundreds of taxpayers with tax problems. It is my sincere hope that my testimony today will serve to improve the operation of the IRS for the benefit of the taxpaying public.

The Internal Revenue Code does not abuse taxpayers. A complicated tax code may result in some unfair taxation, but rarely is it the cause of abuse. Long multi-page tax forms also do not in themselves cause abuse. Frustration maybe, but not abuse. Even an audit, while certainly stressful should not result in taxpayer abuse.

What then has caused the outcry of American citizens about abuse from the IRS, and the plethora of media reports of the heavy hand used by the IRS?

Abuse of the taxpaying public occurs when the IRS improperly, and sometimes illegally, uses its vast power in the process of implementing some type of enforcement of the tax laws. Enforcement is the levy of a paycheck or bank account, the seizure of a car, or home, or business. It can also result in the forced liquidation of a taxpayer's life savings, IRA, or retirement account.

There is only one small part of the IRS that implements all of these types of enforcement -- the IRS Collection Division. The Collection Division is charged with the collection of unpaid taxes and securing unfiled delinquent tax returns. The Collection Division serves wage and bank levies, files tax liens, seizes cars, homes and businesses to enforce the collection of unpaid taxes. The Collection Division takes literally hundreds of enforcement actions every day! Yes, hundreds of these actions against taxpayers every day. It is the Collection Division of the IRS that is responsible for the overwhelming majority of IRS enforcement actions.

Enforced collection of unpaid axes is a necessity. As a result, the danger of taxpayer abuse is both inherent and inevitable. Many taxpayers will feel they have been abused simply because they do not like the fact that they are being compelled to pay their fair share. We understand that "comes with the territory" when enforced collection of taxes is part of one's every day job. So how does one ferret out the true cases of taxpayer abuse? The answer to that question is the important issue to be addressed.

First of all, does the IRS correct abuses when they become aware of them? Often times, they do. However, the more important question is, does the IRS cover up occurrences of abuse? The answer is, yes! If the true number of incidences of taxnaver abuse were ever known, the public would be appalled. If the public also ever knew the number of abuses "covered up" by the IRS, there could be a tax revolt.

Why do we not know of these "covered up" abuses? The answer is simple. The IRS protects itself by management support of employee actions whether those actions are right or wrong. This acceptance of abusive actions by management is the root cause of taxpayer abuse.

As I mentioned earlier, the initial cause of taxpayer abuse is IRS employees who actually implement enforcement actions, many of which are approved by management in advance. The enforcement may be necessary, however, it is the improper, or sometimes illegal, enforcement that causes unnecessary abuse. Sadly, some employees repeatedly do not follow proper collection policies and procedures and thereby repeatedly abuse taxpayers. There are several reasons why this occurs:

1. IRS tax collectors, Revenue Officers, but more importantly managers, are not properly trained in IRS policies and Internal Revenue Manual (IRM) procedures.

2. Revenue Officers, but more importantly managers, often respond that IRM policies and procedures are "guidelines" only and do not carry the force of law.
3. When management condones the abuse, the Revenue Officer believes the mistake is acceptable and is free to repeat the error again.
4. Revenue Officers learn the general perception from management that most tax debtors are trying to cheat the government, are crooks or flakes, and generally not willing to pay their fair share of taxes.
5. Revenue Officers capitalize on the taxpayer's inherent fear of the IRS and the intimidation that they can inflict on taxpayers without any consequences for their improper enforcement.
6. Revenue Officers, often with management approval, use enforcement to "punish" taxpayers instead of trying to collect the most money for the government.

There is an IRS policy statement on Collecting Principles P-5-2 NZ7, which is the most often ignored. In part, it states: "We should help taxpayers who try to comply with the law, and take appropriate enforcement actions when taxpayers resist complying. Good judgement is needed in selecting the appropriate collecting tool."

If this one policy statement were properly applied, it would eliminate most all taxpayer abuse. But it is IRS management that must lead the way.

The most important factor in all of the foregoing information is that occasional frontline employee errors in judgement, violations of the Internal Revenue Manual and lack of understanding of policy statements are to be expected. However, what is not acceptable is frontline management support of these mistakes. What is unconscionable is upper management's support or tolerance of frontline management errors. The bottom line is that the abuse of taxpayers by the IRS is most often caused by the Collection Division -- and the problem with the Collection Division is mismanagement.

The following are some general scenarios of Internal Revenue Manual violations and taxpayer abuse that I have personally encountered:

1. On far too many occasions, when a taxpayer fails or forgets to supply one or two items on a long list requested by the Revenue Officer, the Officer's response is the heavy hammer of a paycheck or bank levy.
2. Even when a taxpayer is represented by a Power of Attorney, the Power of Attorney is quite often treated more aggressively than the taxpayer. Revenue Officers generally learn from management the perception that most Powers of Attorney intentionally try to delay the resolution of a case. This attitude is what causes the greatest animosity between the tax representation community and the IRS. Disregarding the policy statement that I read to you earlier results in damaging the credibility of the IRS and the integrity of the Revenue Officer.
3. Quite often, the Revenue Officer finds a specious reason to serve levies on the very source of income or assets that the taxpayer disclosed to the IRS. Again, this only serves to undermine the credibility and integrity of the IRS. It is no wonder that the taxpaying public has an aversion to providing any information to the IRS. It is an aversion created by the IRS' repeated misuse of information provided to them by the cooperative taxpayer.
4. When a levy is served prematurely, even when the IRS admits that the levy was improperly served, the routine IRS response is that when the taxpayer provides additional information, the IRS will "consider" releasing the levy. When the information is provided, the IRS adds insult to injury by not releasing the levy. The IRS cannot seem to grasp the concept that when it makes a mistake, it should reverse the error immediately, no matter what the consequence to the IRS.

5. Revenue Officers routinely violate the relationship with the Power of Attorney by contacting the taxpayer directly. It is also a common practice of Revenue Officers and frontline managers to try to intimidate a Power of Attorney into thinking that the IRS has a right, false though it may be, to interview the taxpayer personally.

6. I have heard of Revenue Officers trying to discourage taxpayers from hiring representatives and making disparaging, and slanderous statements about representatives. Many taxpayer representatives know IRS collection procedures better than the Revenue Officers. In many instances I have heard and experienced more harsh treatment of representatives simply because the taxpayer's representative was former IRS.

7. The Internal Revenue Manual states that, "...reasonable necessary living expenses are always allowed." However, on more than one occasion I have seen the IRS punish a taxpayer by not allowing reasonable necessary living expenses, even current tax payments. Why? Because the Revenue Officer and the manager did not think the taxpayer obeyed their commands appropriately and simply felt that the taxpayer could somehow survive without reasonable necessary living expenses.

8. A Revenue Officer, with IRS District Counsel concurrence, can serve what are termed, "nominee" liens and levies, against third parties whom the IRS "believes" are in possession of assets belonging to the taxpayer. The IRS is not required to provide documentation to the taxpayer. The IRS is not required to provide documentation to the taxpayer or the third party supporting the basis of ' their "beliefs." The IRS basically has the attitude "Sue us to prove that we are wrong."

9. I have witnessed Collection Division Branch Chiefs, Assistant Division Chiefs, Division Chiefs, Problem Resolution (PRO) employees, and even an Assistant District Director, violate or ignore Internal Revenue Manual procedures and Treasury regulations simply because they wanted to punish a taxpayer.

I have seen more violations of IRS procedures and policies than I can count. The most appalling aspect of the foregoing examples is that in most every instance, IRS management supported the erroneous actions of the Revenue Officer.

The Problem Resolution Office (PRO) is responsible for protecting the taxpayer from IRS abuse. But having appealed many taxpayer abuses to the PRO, I have found them to be utterly useless. PRO employees are typically Revenue Officers who came from Collection Division and who may very well return to the Collection Division after spending some time in the PRO. The PRO employees must depend on their evaluations and promotions from the same Collection Division management which they are required to police while assigned to the PRO. If the public thinks that the PRO is being objective in assisting with abuse cases, the public is being hoodwinked!

What are the solutions to end this suffering of repeated abuses that I have just outlined? I have two basic answers.

First, require the IRS to follow its Internal Revenue Manual as though it were law. The IRS should be required to follow the manual to the letter. Taxpayers are required to follow complicated tax return instructions, so why shouldn't the IRS be required to follow their own procedures?

Second, make the IRS and management responsible for violations of Manual procedures. By that I do not mean holding frontline employees responsible for accidental or unintentional mistakes. However, when upper management condones the violations which bring great detriment to taxpayers, then management should be held personally responsible.

As only one taxpayer representative out of thousands across the country, I have seen dozens of taxpayers severely damaged, even made homeless, by the IRS Collections Division. The true bottom line solution to resolving taxpayer abuses is IRS frontline management. Restitution by an administrative claim as opposed to court action for erroneous or improper actions would be a giant step in the right direction, but who will decide when an action is improper?

If left in the hands of the IRS, you will have an IRS proud of the fact that they paid out a minimal amount of restitution funds over the course of the year.

The culture of the IRS must change and it will not change on its own!

Thank you.