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UNPAID PAYROLL TAXES: BILLIONS IN DELINQUENT TAXES AND PENALTY ASSESSMENTS ARE OWED

HEARING

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, INFORMATION, AND TECHNOLOGY

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

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UNPAID PAYROLL TAXES: BILLIONS IN DELINQUENT TAXES AND PENALTY ASSESSMENTS ARE OWED

MONDAY, AUGUST 2, 1999

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT MANAGEMENT,
INFORMATION, AND TECHNOLOGY,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2154 Rayburn House Office Building, Hon. Stephen Horn (chairman of the subcommittee) presiding.

Present: Representatives Horn, Biggert, and Turner.

Staff present: Russell George, staff director/chief counsel; Bonnie Heald, director of communications; Grant Newman, clerk; Chip Ahlswede, staff assistant; Seann Gallagher, intern; Trey Henderson, minority counsel; and Jean Gosa, minority staff assistant.

Mr. HORN. A quorum being present, the Subcommittee on Government Management, Information, and Technology will come to order. Few things are as annoying as seeing a portion of one's hard-earned wages deducted from a paycheck for Federal taxes. Most workers correctly assume the missing money is on its way to the U.S. Treasury. But today's hearing has been called because in too many cases, too many of hard-earned wages are not being forwarded to the Internal Revenue Service.

As will be discussed by the General Accounting Office, the Congress's financial and program auditors, in releasing a report today, it indicates an appalling number of employers, estimated at 1.9 million of them, have deducted money from their employees' paychecks for programs such as Social Security and Medicare, then failed to forward the collected money to the Federal Government. The General Accounting Office estimates that $49 billion is at stake.

Now, we are arguing over a piddling amount, saying that we have a surplus. Obviously, we would have a real surplus if we had the $49 billion there. The loser in this case is the U.S. Treasury, and of course that means every taxpayer.

We will explore if the workers who thought they were contributing toward Social Security and Medicare won't be penalized for the loss. Often by the time that the loss is finally discovered by the Internal Revenue Service, neither the business nor the delinquent employer can be located. In many instances, the culprits are businesses that were struggling to survive. To a lesser degree, some

employers knowingly defraud the system. Either way, the Internal Revenue Service has failed to uphold its responsibility to the taxpayer.

This is not an isolated problem at the agency. Reviews of Internal Revenue Service audits for the past 2 years have turned up significant weaknesses in the agency's financial procedures. Following each annual audit review conducted by the General Accounting Office, this subcommittee has held a series of hearings to examine the problems found within not only the Treasury, but in the 24 agencies of the executive branch that have most of the budget.

On March 1, 1999, the subcommittee examined financial management at the Internal Revenue Service. The subcommittee found that serious problems existed with the agency's financial management systems which cannot provide basic accounting information, let alone management information in an efficient manner. In addition, the agency poorly controlled its records and the manner in which it handled its cash payments.

Today we are focusing on those employers who have failed to pay mandatory payroll contributions to the Federal Government. We are also concerned about those employers who have paid these taxes but whose record of payment may be buried in someone's file cabinet. We want to know the scope of this payroll tax debt, its causes, and what is being done by the Internal Revenue Service to prevent this massive violation of the law from recurring. We also want to know whether these delinquent employers are receiving other Federal benefits such as loans and other payments.

We have excellent witnesses today who can answer these questions for us: Commissioner of the Internal Revenue Service, Charles Rossotti, and Mr. Gregory Kutz, the Associate Director of Governmentwide Accounting and Financial Management Issues for the General Accounting Office.

We will start with the General Accounting Office. Mr. Kutz will be accompanied by Ms. Cornelia Ashby and Steve Sebastian. Following that panel, Commissioner Rossotti will be here and we will introduce those with him at that time.

[The prepared statement of Hon. Stephen Horn follows:]

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Oversight Hearing on
PAYROLL TAXES: Billions in Delinquent Taxes and Penalties Due,
But Unlikely to Be Collected
August 2, 1999

OPENING STATEMENT
REPRESENTATIVE STEPHEN HORN (R-CA)
Chairman, Subcommittee on Government Management,
Information, and Technology

A quorum being present, the Subcommittee on Government Management, Information, and Technology will come to order.

Few things are as annoying as seeing a portion of one's hard-earned wages deducted from a paycheck for Federal taxes. Most workers correctly assume the missing money is on its way to the U.S. Treasury. But today's hearing has been called because, in far too many cases, it is **not** being forwarded to the Federal Government. Nor is it likely to be.

The General Accounting Office is releasing a report today that – as will be discussed – indicates that an appalling number of employers, an estimated 1.9 million, have collected money from their employee's paychecks, for programs such as Social Security and Medicare, then failed to forward it to the Federal Government.

The General Accounting Office, Congress's accounting arm, estimates this problem has cost taxpayers about $49 billion.

The loser, in this case, is the U.S. Treasury and, of course, that means every U.S. taxpayer. It is important to note that the workers who thought they were contributing toward Social Security and Medicare won't be penalized for the loss, because their benefits are based on past earnings rather than the amount actually paid into the programs.

Often, by the time the loss is finally discovered by the Internal Revenue Service, neither the business nor the delinquent employer can be located. In many instances, the culprits are businesses that were struggling to survive. To a lesser degree, some employers knowingly defraud the system. Either way, the Internal Revenue Service has failed to uphold its responsibility to taxpayers.

This is not an isolated problem at the agency. Reviews of Internal Revenue Service audits for the past two years have turned up significant weaknesses in the agency's financial procedures. Following each annual audit review, conducted by our friends at the General Accounting Office, this subcommittee has held a series of hearings to examine the problems found within many of the 24 largest agencies of the Executive Branch of the Federal Government.

On March 1, 1999, the subcommittee examined financial management at the Internal Revenue Service. The subcommittee found that serious problems existed with the agency's financial management systems, which cannot provide basic accounting information in an efficient manner. In addition, the agency poorly controlled its records and the manner in which it handles cash payments.

Today, we will focus on those employers who have failed to pay mandatory payroll contributions to the Federal Government. We are also concerned about those employers who have paid these taxes, but whose record of payment may be buried in someone's file cabinet.

We want to know the scope of this payroll tax debt, its causes, and what is being done at the Internal Revenue Service to prevent it from recurring. We also want to know whether these delinquent employers are receiving other Federal benefits such as loans or other payments.

We have excellent witnesses today who can answer those questions for us. Commissioner Charles Rossotti, Commissioner of the Internal Revenue Service and Mr. Gregory Kutz, Associate Director of Governmentwide Accounting and Financial Management Issues for the General Accounting Organization. Commissioner Rossotti will be accompanied by Mr. Paul Cosgrave, Mr. David Mayder, and Mr. Charles Peterson. Mr. Kutz will be accompanied my Ms. Cornelia Ashby and Mr. Steve J. Sebastian.

I welcome you all, and look forward to your testimony.

Mr. HORN. So would the gentleman from the General Accounting Office come forward and be sworn in, please? I think you know the routine. We swear in all witnesses. It's an investigating committee and your full statement is put in the record the minute we call on you, and then we would like you to summarize the statement.

[Witnesses affirmed.]

Mr. HORN. The clerk will note all three witnesses affirmed. I think that we have got everybody there.

Mr. Turner has an opening statement.

Mr. TURNER. Thank you, Mr. Chairman. The issue of unpaid Federal payroll taxes is a very important one and has repercussions throughout the government. As a result of our failure to properly collect payroll taxes, the general revenue fund is forced to subsidize Social Security and hospital insurance trust funds. Therefore, less funds are available to finance other Federal programs when Federal payroll taxes go unpaid.

While the majority of businesses pay taxes withheld from employees' salaries as well as the employers' matching amounts, a significant number of businesses apparently do not. According to IRS records as of September 30, 1998, nearly 2 million businesses owed, as the chairman said, about $49 billion in payroll taxes, or about 22 percent of the IRS' $222 billion total outstanding balance of unpaid tax assessments. Additionally, $15 billion in trust fund recovery penalties has been assessed against and continued to be owed by approximately 185,000 individuals who are found to be willful and responsible for the nonpayment of payroll taxes.

Nonetheless, it is even more disturbing to learn that individuals and businesses responsible for the nonpayment of payroll taxes continue to receive significant Federal benefits and other Federal payments such as Federal contracts or loans. The GAO estimates that about 16,700 business and individuals with unpaid payroll taxes and penalties received an estimated $7 billion in Federal payments over a 3-month period.

Unpaid payroll taxes and penalties have a low recovery potential. We are gathered here today to learn about several factors that affect the ability of the IRS to enforce compliance and pursue collections in this area. These include system deficiencies and internal control issues which affect the integrity of IRS data, ineffective early warnings and taxpayer education programs, procedural limitations, Federal and State laws, and staffing resources.

Another issue affecting the IRS's ability to collect is their lack of capability to offset Federal benefits and other Federal payments against unpaid assessments. Federal law does not prevent businesses or individuals from receiving Federal payments or loans when they are delinquent in paying Federal taxes. The Debt Collection Improvement Act of 1996, which Chairman Horn and this subcommittee steered through the Congress, called upon the centralization and aggressive pursuit of delinquent Federal receivables. However, they were unable to include Federal tax receivables and other unpaid tax assessments from its provisions.

I am pleased to note that the Department of Treasury, using the Taxpayer Relief Act of 1997 as its legal authority, is developing a mechanism which will grant the IRS the authority to place a con-

tinuous levy on delinquent taxpayer Federal benefits to assist in recovering overdue taxes.

Mr. Chairman, I hope that we can get at the heart of the problem here today with this hearing, and I look forward to hearing from each of our witnesses. Thank you, Mr. Chairman.

Mr. HORN. I thank the gentleman from Texas for that very thoughtful statement.

[The prepared statement of Hon. Jim Turner follows:]

OPENING STATEMENT OF THE HONORABLE JIM TURNER
GOVERNMENT MANAGEMENT, INFORMATION, AND TECHNOLOGY
HEARING ON "UNPAID PAYROLL TAXES: BILLIONS IN DELINQUENT TAXES AND PENALTY ASSESSMENTS ARE OWED"
August 2, 1999

Mr. Chairman, the issue of unpaid federal payroll taxes is an important one that has repercussions throughout the federal government. As a result of our failure to properly collect payroll taxes, the general revenue fund is forced to subsidize the Social Security and hospital insurance trust funds. Therefore, less funds are available to finance other federal programs.

While the majority of businesses pay taxes withheld from employees' salaries as well as the employers' matching amounts, a significant number of businesses do not. According to IRS records, as of September 30, 1998, nearly 2 million businesses owed about $49 billion in payroll taxes, or about 22 percent of IRS' $222 billion total outstanding balance of unpaid tax assessments.

Additionally, $15 billion in trust fund recovery penalties (TFRP) has been assessed against, and continue to be owed by, approximately 185,000 individuals who are found to be "willful and responsible" for the nonpayment of payroll taxes.

Nonetheless, it is even more disturbing to learn that individuals and businesses responsible for the nonpayment of payroll taxes continue to receive significant federal benefits and other federal payments, such as federal contracts or loans. The GAO estimates that about 16,700 businesses and individuals with unpaid payroll taxes and TFRPs received an estimated $7 billion in federal

payments over a 3 month period.

Unpaid payroll taxes and most TFRPs have a low recovery potential. We are gathered here today to learn about several factors that affect the ability of the IRS to enforce compliance or pursue collections in this area. These include system deficiencies and internal control issues which affect the integrity of IRS data, ineffective early warnings and taxpayer education programs, procedural limitations, federal and state laws, and staffing resources.

Another issue affecting the IRS' ability to collect, is their lack of capability to offset federal benefits and other federal payments against unpaid tax assessments. Federal law does not prevent businesses or individuals from receiving federal payments or loans when they are delinquent in paying federal taxes. The Debt Collection Improvement Act (DCIA) of 1996, which Chairman Horn and this Subcommittee steered through Congress, called for the centralization and aggressive pursuit of delinquent federal receivables. However, they were unable to include federal tax receivables and other unpaid tax assessments from its provisions. I am pleased to know that the Department of Treasury, using the Taxpayer Relief Act of 1997 as its legal authority, is developing a mechanism which will grant the IRS the authority to place a continuous levy on delinquent taxpayer's federal benefits to assist in recovering overdue taxes.

Mr. Chairman, it is my hope that we can get to the heart of this problem and have a discussion on what needs to be done to correct it.

Mr. HORN. The vice chairman, Mrs. Biggert of Illinois, has an opening statement.

Mrs. BIGGERT. Thank you, Mr. Chairman. Thank you for holding this timely hearing. I think all of us here today want the same thing; that is, to ensure that America's entitlement programs such as Medicare and Social Security remain solid and dependable for this generation as well as the next.

However, like many, I am concerned about the health of these important programs has been undermined by a number of factors. Today's hearing focuses on another but lesser known factor that threatens to undermine the solvency of these programs: unpaid payroll taxes. And the General Accounting Office will present what could only be a disturbing report this morning that details the extent to which payroll taxes have been withheld by employers, but are not being remitted to the Federal Government.

Keep in mind, payroll taxes such as Federal insurance contributions, are used to fund and maintain the Social Security and Medicare Trust Funds. If what I understand the GAO will report this morning is correct, that unpaid payroll taxes represent a substantial amount of the billions owed to the Federal Government in unpaid assessments, I further fear for the long-term health of these programs.

Today's hearing presents this committee with an opportunity to conduct its most important function—oversight. As such, I will be interested to hear from the witnesses. I am also interested in hearing about what the Department of Treasury, which has jurisdiction over the Medicare and Social Security Trust Funds, is doing in this situation.

Again, Mr. Chairman, I thank you for holding this important hearing today. I look forward to working with you and the agencies here today and the taxpayers to collect what is owed and to strengthen retirement security.

Mr. HORN. I thank the gentlewoman. I see no other opening statements, so we will go to the General Accounting Office. Our principal witness is Mr. Gregory Kutz, the Associate Director, Governmentwide Accounting and Financial Management for the Accounting and Information Management Division of the General Accounting Office. He is accompanied by Cornelia Ashby, the Associate Director, Tax Policy and Administration Issues; and Mr. Steve Sebastian, the Assistant Director, Governmentwide Accounting and Financial Management. Please go ahead, Mr. Kutz.

STATEMENT OF GREGORY D. KUTZ, ASSOCIATE DIRECTOR, GOVERNMENTWIDE ACCOUNTING AND FINANCIAL MANAGEMENT, ACCOUNTING AND INFORMATION MANAGEMENT DIVISION, U.S. GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY CORNELIA ASHBY, ASSOCIATE DIRECTOR, TAX POLICY AND ADMINISTRATION ISSUES, GENERAL GOVERNMENT DIVISION; AND STEVE J. SEBASTIAN, ASSISTANT DIRECTOR, GOVERNMENTWIDE ACCOUNTING AND FINANCIAL MANAGEMENT

Mr. KUTZ. Mr. Chairman and members of the subcommittee, good morning. It is a pleasure to be here this morning to discuss our report on unpaid payroll taxes. This report, which is being

issued today, was prepared at the request of this subcommittee. With me this morning is Cornelia Ashby, an Associate Director in our tax policy area, and Steve Sebastian, an Assistant Director who works with me on IRS financial management issues.

The bottom line of my testimony this morning is that delinquent payroll taxes are substantial, are largely uncollectible, and represent a significant enforcement challenge for the IRS.

My testimony this morning will answer four overall questions: What are payroll taxes and trust fund recovery penalties? How significant are delinquent payroll taxes? To what extent are individuals and businesses responsible for these taxes receiving other Federal payments? And what factors affect IRS' ability to enforce compliance or pursue collection in this area?

First, what are payroll taxes and trust fund recovery penalties? Payroll taxes are comprised of individual income tax withholdings and employer and employee withholdings for Federal Insurance Contribution Act [FICA], which includes Social Security and Medicare taxes. Employers are required to deposit payroll taxes every 2 weeks, or monthly, depending on the size of their payroll.

While the vast majority of businesses remit their payroll taxes as required, a significant number do not. Think of the Federal Government as a corporation and the businesses that pay payroll taxes as its customers. Inevitably, some of the corporation's customers fail due to factors such as poor management.

As a result, for the Federal Government, unpaid payroll taxes are like a corporation's uncollectible receivables. They represent a cost of doing business. One or more individuals found to be willful and responsible for unpaid payroll taxes can be assessed a trust fund recovery penalty. The most extreme case of willful and responsible we found was the diversion of unpaid payroll taxes to install an individual's swimming pool. This penalty covers only the portion of payroll taxes that are withheld from employees. The term "trust fund recovery penalty" is used because the employee-withheld amounts are deemed to be held "in trust" by the business on behalf of the Federal Government.

The bar chart on the poster board provides an example. In this example, the corporation's unpaid payroll taxes are $75,000. The three responsible individuals were each assessed a $50,000 trust fund recovery penalty. As you can see, this penalty represents only amounts withheld from employees for Federal income and FICA taxes. While each $50,000 trust fund recovery penalty appears as a separate assessment on IRS's records, the $75,000 of payroll taxes owed by the business are to be collected only once.

I now move on to our findings, starting with the second question: How significant are delinquent payroll taxes? Cumulative unpaid payroll taxes at September 30, 1998, were about $49 billion and were owed by 1.8 million businesses. The components of this balance are old, with about 70 percent of the amounts predating 1994. The amounts comprising this balance are generally uncollectible.

Our analysis of 191 unpaid payroll tax cases found that many of the businesses were defunct or otherwise unable to pay. Given the condition of these businesses, it is not surprising to see, as shown on the pie chart, that we estimate only 9 cents on the dollar will be collected for these cases.

IRS records indicate that most of the businesses with delinquent payroll taxes are corporations. We found that they were typically small and closely held, in labor-intensive industries, with few assets available as collection sources for the IRS. We found that the most common types of businesses that owe payroll taxes construction companies and restaurants.

The cumulative balance of unpaid trust fund recovery penalties was about $15 billion at September 30, 1998. IRS records indicate that these penalties were assessed against 185,000 individuals.

Who are these individuals that are assessed trust fund recovery penalties? Typically, they are officers of the corporation, such as the president or the Chief Financial Officer. Similar to payroll taxes, we found that trust fund recovery penalties are generally not collectible. As shown on the poster board, IRS records indicate that at September 30, 1998, nearly 25,000 individuals have been assessed trust fund recovery penalties for more than one business. In fact, as the chart shows, nearly 6,000 of what I will refer to as "multiple offenders" are responsible for unpaid payroll taxes at 3 or more businesses. Amazingly, the 7 most flagrant multiple offenders were responsible for unpaid payroll taxes at 20 or more separate businesses.

IRS revenue officers we interviewed believe that most multiple offenders are not flagrantly disregarding their responsibility. However, some revenue officers told us of multiple offenders who intentionally abused the system. For example, in one case we found a president and owner responsible for unpaid payroll taxes at 5 separate construction-related businesses. Each company accumulated unpaid payroll taxes, and then went out of business.

Whether the individual exercises poor business judgment or is abusing the system, the failure to pay these taxes has the same effect on the Federal Government—increased collection cost and lost tax revenue.

Let me now move on to the third question: Is it possible that businesses and individuals responsible for delinquent payroll taxes are also receiving Federal benefits, contracts, and loans? Unfortunately, the answer is yes. As shown on the table, we found that over 18,000 of these individuals were receiving an estimated $212 million in annual civilian benefits. These include Social Security, civilian retirement, civilian salary, and railroad retirement payments. In addition, we found that 16,700 of these individuals and businesses received about $7 billion in civilian vendor payments over a 3-month period.

Also, we estimate that at September 30, 1998, about 12,700 taxpayers had received SBA loan disbursements of about $3.5 billion. Many of these individuals and businesses received these loan disbursements after defaulting on their payroll taxes. IRS revenue officers confirmed that individuals and businesses across the country responsible for delinquent payroll taxes were receiving Federal benefits, payments, and loans.

The troubling situation I have described leads to my final question: What factors affect IRS' ability to enforce compliance or pursue collection in this area? In answering this question I will touch on three key factors.

First, system deficiencies and internal control weaknesses make it difficult for IRS to manage its unpaid tax assessments. These system and control weaknesses have led to significant errors in taxpayer accounts. In our review of trust fund recovery penalty cases for fiscal years 1997 and 1998, we found error rates of over 50 percent in taxpayer accounts. In one case we found that IRS had pursued and collected nearly $1 million for trust fund recovery penalty assessments from two officers and had placed Federal tax liens on their personal property. However, these officers' liabilities had already been satisfied from bankruptcy proceedings relating to the business.

Second, based on discussions with IRS revenue officers nationwide, we learned that taxpayer education and early warning programs are ineffective. For example, IRS' FTD Alert Program is intended to prevent potential delinquencies through early identification of missed payroll tax deposits. However, IRS field representatives noted that alerts typically are received too late to prevent employers from accumulating substantial tax delinquencies. In addition, these untimely alerts sometimes caused revenue officers to contact taxpayers who had already paid their taxes. Many revenue officers believe the key to improving IRS' effectiveness is to contact the business immediately after the first missed payment.

Third, Federal and State laws inhibit IRS' ability to enforce collection of payroll taxes. States govern the incorporation of businesses. If businesses fail to pay State taxes, State licensing authorities can deny them business licenses or license renewals. However, States do not consider Federal payroll tax delinquencies, in part because the Internal Revenue Code prohibits disclosure of Federal tax information without taxpayer consent. Because the IRS is unable to share this information with the States to use in granting business licenses, stopping multiple offenders is clearly inhibited.

In summary, unpaid payroll taxes cost the Federal Government billions of dollars annually. At the same time, businesses and individuals responsible for these unpaid taxes are benefiting from billions of dollars of Federal payments. The end result is that compliant American taxpayers must pay more.

For the Federal Government, unpaid payroll taxes are a cost of doing business. Based on the information I have provided to you this morning, I think you will agree that collecting payroll tax revenue while protecting taxpayer rights is a formidable challenge for the IRS.

Some of the issues relating to enforcement and collection, such as incorporation at the State level, are beyond IRS' control. However, to improve the Federal Government's ability to prevent default and collect these taxes, IRS must improve its systems, policies, and internal controls.

IRS has concurred with the facts in our report and shares our concern. They are working on short-term measures to improve the

accuracy of taxpayer accounts. However, we recognize that the systems problems resulting in errors in taxpayer accounts must be resolved as part of tax systems modernization.

Mr. Chairman, this ends my statement. My colleagues and I will be happy to answer any questions.

[The prepared statement of Mr. Kutz follows:]

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on Government Management, Information and Technology, Committee on Government Reform, House of Representatives

For Release on Delivery
Expected at
10 a.m.
Monday,
August 2, 1999

PAYROLL TAXES

Billions in Delinquent Taxes and Penalties Due But Unlikely to Be Collected

Statement of Gregory D. Kutz, Associate Director
Governmentwide Accounting and Financial Management Issues

Statement of Cornelia M. Ashby, Associate Director
Tax Policy and Administration Issues

GAO/T-AIMD/GGD-99-256

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss the results of our work on payroll taxes owed to the federal government and the associated trust fund recovery penalties assessed against individuals responsible for the nonpayment of these taxes. This work was performed in response to your request for information on unpaid payroll taxes and associated tax penalties. We are issuing our report on the results of this work today.[1]

In your request, you asked that we determine:

- the extent to which payroll taxes are not remitted to the federal government,
- the magnitude of the trust fund recovery penalties (TFRPs) assessed against individuals of businesses that withheld federal payroll taxes from employees' salaries but did not forward them,
- the extent to which individuals who have not remitted payroll taxes are responsible for not paying these taxes at multiple businesses,
- the extent to which businesses and individuals who failed to pay payroll taxes are also receiving federal benefits or other federal payments, and
- the factors that affect the Internal Revenue Service's (IRS) ability to enforce compliance or pursue collections in this area.

The report we are issuing today responds to each of these questions. This statement summarizes the major issues contained in our report.

[1]See Unpaid Payroll Taxes: Billions in Delinquent Taxes and Penalty Assessments Owed (GAO/AIMD/GGD-99-211, August 2, 1999).

In summary, at September 30, 1998, $49 billion in cumulative unpaid payroll taxes were owed by nearly 2 million businesses, and $15 billion in TFRPs had been assessed against, and remained owed by, 185,000 individuals responsible for the nonpayment of payroll taxes. The majority of these unpaid payroll taxes and associated TFRPs will unlikely be collected. Nearly 25,000 individuals with outstanding TFRPs were responsible for withholding but not forwarding payroll taxes to the government at more than one business. A significant number of both businesses with unpaid payroll taxes and individuals with outstanding TFRPs are also receiving billions of dollars in federal benefits and payments. Several factors, including financial management system deficiencies and internal control weaknesses, ineffective taxpayer education and early warning programs, and federal and state laws, affect IRS' ability to enforce compliance and pursue collection of unpaid payroll taxes.

PAYROLL TAXES AND THE PROCESS FOR DISTRIBUTING MONIES TO THE TRUST FUNDS

Employers are required to withhold from their employees' salaries amounts for individual federal income taxes and Federal Insurance Contribution Act (FICA) taxes, which include taxes for Social Security and hospital insurance (Medicare). Employers are required to forward these withheld taxes, as well as the employers' matching FICA tax

amounts, to the federal government. The Department of the Treasury, through the IRS, is responsible for collecting these taxes.

The information IRS receives at the time it collects several types of tax payments, including those for Social Security and hospital insurance, is not sufficient to allow it to attribute these payments to specific trust funds. For this reason, initial distributions to the Social Security and hospital insurance trust funds are based on estimates prepared by the Social Security Administration's (SSA) Office of the Chief Actuary and Treasury's Office of Tax Analysis (OTA), with adjustments subsequently made as a result of certifications made by the Commissioner of SSA. This process is illustrated in detail in the attachment to this statement.

It is important to emphasize that the amounts distributed to the Social Security and hospital insurance trust funds are based on the wages an individual earns as required by law, not the amount the employer actually forwards to the government. This ensures that individuals who work and have taxes withheld to pay into the Social Security program--or their spouses and qualified dependents--receive the appropriate level of program benefits when they retire, become disabled, or die.

However, this also creates a situation in which the general revenue fund subsidizes the Social Security and hospital insurance trust funds to the extent that Social Security and hospital insurance taxes owed are not actually collected. While the vast majority of businesses pay the taxes withheld from employees' salaries as well as the employers'

matching amounts, a significant number of businesses do not. Over time, the cumulative amounts of unpaid payroll taxes, and thus the amount of this subsidy, is significant. As of September 30, 1998, the estimated amount of unpaid taxes and interest in IRS' $222 billion unpaid assessments balance was approximately $38 billion for Social Security and hospital insurance taxes.[2]

Trust Fund Recovery Penalties

To the extent a business withholds money from an employee's salary for federal income taxes and the employee's FICA obligation but does not forward these monies to the federal government, that business is liable for these unpaid taxes, as well as its own matching FICA contribution. Under statute, if determined to be "willful and responsible," individuals can also be held personally liable and subject to a TFRP for federal income and FICA taxes withheld from employees but not forwarded to the federal government. It should be noted that IRS does not have to determine that there was a deliberate intent or desire to defraud the federal government as a prerequisite to assessing a TFRP.

More than one individual can be found willful and responsible for a business' failure to pay the federal government withheld payroll taxes and thus be assessed a TFRP.

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[2]This estimate includes both FICA and Self-Employment Contribution Act (SECA) taxes, but does not include federal income tax withholdings, which are a component of payroll taxes. SECA taxes are Social Security and hospital insurance taxes required to be paid by self-employed individuals. Accrued interest is also included in the estimate because assessments distributed to the trust funds earn interest at Treasury-based interest rates, similar to IRS' interest accruals.

Additionally, the business itself is still liable for the entire amount of the unpaid payroll taxes. However, IRS policies require that it collect the unpaid tax only once.

CUMULATIVE UNPAID PAYROLL TAXES ARE SIGNIFICANT

According to IRS records, as of September 30, 1998, businesses owed the federal government about $49 billion in payroll taxes.[3] This represents about 22 percent of the $222 billion in IRS' inventory of unpaid tax assessments as of September 30, 1998. The $49 billion includes about $19 billion in unpaid tax assessments and another $30 billion in penalties and interest.

While comprising less than a quarter of IRS' outstanding balance of unpaid assessments at September 30, 1998, unpaid payroll taxes comprise over 50 percent of IRS revenue officers' caseloads in many regions of the country. Consequently, they represent one of IRS' most significant enforcement challenges.

[3]Differences between this amount and the estimated cumulative subsidy amount of $38 billion discussed previously are due to the following: (1) the $49 billion in unpaid payroll taxes includes federal income tax withholdings, which are not included in the estimate, and (2) the $38 billion estimated subsidy includes unpaid SECA taxes, which are not included in the $49 billion in unpaid payroll taxes.

The Number and Age of Delinquent

Payroll Taxes Are Significant

IRS records show that over 1.8 million businesses owe the $49 billion in unpaid payroll taxes for more than 4.9 million separate tax periods or quarters (see table 1). Nearly 50 percent of the businesses with outstanding payroll taxes are delinquent for more than one quarter. Some of these businesses have in excess of 40 quarters of delinquent payroll taxes.

Table 1: Businesses With Multiple Quarters of Unpaid Payroll Taxes

	Unpaid payroll taxes	
Number of businesses	**Number of quarters**	**Outstanding balance[a] (dollars in billions)**
1,702,177	1 to 6	$26.4
158,106	7 to 20	21.0
5,281	21 to 40	1.5
86	Over 40	0.1
Total 1,865,650	--	$49.0

[a]Consists of taxes, penalties and interest.
Source: IRS Business master file.

As table 1 illustrates, a significant number of businesses have multiple tax periods of unpaid payroll taxes. Over 52 percent of the 4.9 million in delinquent quarters of payroll taxes predate 1994, as shown in table 2. Moreover, these multiple periods of unpaid payroll taxes can go back as much as 20 years or more. The outstanding balance of these delinquent quarters of payroll taxes totals over $34 billion, representing over 70 percent of the total balance of unpaid payroll taxes in IRS' inventory of unpaid assessments at September 30, 1998.

Table 2: Delinquent Quarters of Unpaid Payroll Taxes and Their Outstanding Balances by Age

	Unpaid payroll taxes	
Tax years	**Number of quarters**	**Outstanding balance[a] (dollars in billions)**
1994-1998	2,348,838	$14.4
1988-1993	2,198,493	25.4
1980-1987	407,619	9.0
Before 1980	3,491	0.2
Total	4,958,441	$49.0

[a]Consists of taxes, penalties and interest.
Source: IRS Business master file.

Potential Collectibility of

Unpaid Payroll Taxes Is Low

Taxpayer account status codes maintained in IRS' systems indicate little potential for collection for many of the 4.9 million delinquent payroll tax accounts, as shown in table 3. In fact, these records would indicate that the majority of the unpaid payroll tax accounts are not likely to be collected.

Table 3: Delinquent Payroll Tax Accounts with Little Likelihood of Collection

Business status	**No. of accounts**	**Percentage of 4.9M delinquent accounts**
No longer in existence	1.4 million	28
Insolvent or IRS is unable to locate or contact	487,000	10
Does not have resources to pay amount owed	444,000	9
In bankruptcy or other litigation proceedings	189,000	4
Total		51

Our previous work on IRS' unpaid assessments[4] has shown that older delinquent taxes have little likelihood of collection. Additionally, our review of a statistical sample of 690 unpaid tax assessments selected as part of our audit of IRS' fiscal year 1998 financial statements reinforces this conclusion. Of the 690 unpaid tax assessment accounts selected for review, 191, with outstanding balances of about $121 million, were unpaid payroll taxes or associated TFRPs.[5] In our review of these cases, both we and IRS determined that only about 9 percent of the outstanding balances would likely be collected.

Types of Businesses With
Unpaid Payroll Taxes

There are many types of businesses with delinquent payroll taxes. IRS records indicate that corporations represent about 56 percent of the total number of businesses with unpaid payroll taxes. Sole proprietorships represent the second most significant category, about 29 percent of the total, and partnerships represent the third most significant category, about 7 percent.

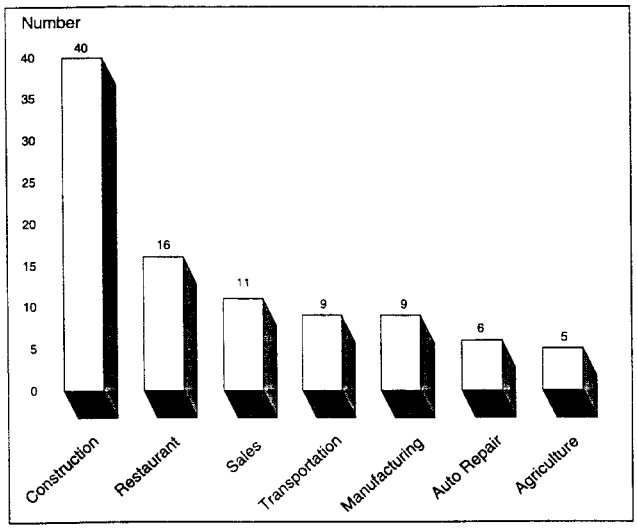
Our review of the 191 unpaid payroll tax cases and discussions with IRS revenue officers throughout the country identified additional characteristics of the businesses that have

[4]See Internal Revenue Service: Composition and Collectibility of Unpaid Assessments (GAO/AIMD-99-12, October 29, 1998).

[5]While our sample of 690 unpaid assessment accounts is a representative sample, the 191 unpaid payroll tax and TFRP cases selected as part of this sample cannot be considered statistically representative of the entire population of such cases. Thus any analysis of these 191 cases cannot be projected to the entire population of unpaid payroll taxes and TFRPs.

failed to forward payroll taxes to the federal government. These businesses are typically in wage-based industries, with few assets available as a potential collection source for the IRS. They are usually small, closely held businesses using a corporate structure, but this can vary by region of the country. As can be seen in Figure 3, construction businesses make up the greatest percentage of industries with unpaid payroll taxes identified in our review of the 191 cases.

Figure 3: Most Common Businesses/Industries With Unpaid Payroll Taxes From Cases Reviewed



Other types of businesses noted in our review of the 191 unpaid payroll tax cases included (1) professional services, (2) consultants, (3) education and training, (4) computer software, and (5) child care.

UNPAID PENALTIES ASSESSED AGAINST INDIVIDUALS FOR NOT FORWARDING PAYROLL TAXES TO THE GOVERNMENT ARE SIGNIFICANT

According to IRS records, as of September 30, 1998, outstanding TFRPs assessed against individuals were about $15 billion. This amount includes initial assessments of about $9 billion and accumulated interest of about $6 billion. IRS records indicate a total of about 237,000 separate TFRP assessments made against, and owed by, nearly 185,000 individuals.

As discussed earlier, a TFRP assessment is only for the federal tax withholding and FICA taxes withheld from employees' salaries; it does not include the business' or employer's matching FICA contributions. Additionally, a TFRP can be assessed against anyone found willful and responsible for the withholding and nonpayment of payroll taxes. If several individuals involved in a business are found willful and responsible, they can each be separately assessed a TFRP for the unpaid taxes. However, while TFRPs are assessed against one or more individuals and thus appear as separate unpaid assessments

on IRS' records, the total payroll taxes owed by the business are to be collected only once. This means that if the business responsible for the unpaid payroll taxes pays some or all of its delinquent taxes, or if one of several individuals assessed a TFRP covering the same delinquent tax period pays some or all of the assessment, the tax liability for all related parties should be reduced or eliminated from IRS' records.

System Deficiencies Affect the Completeness and Accuracy of TFRP Information

In our October 1998 report[6] on internal control weaknesses at IRS, which was based on the results of our audit of IRS' fiscal year 1997 custodial financial statements,[7] we discussed serious financial management systems issues that affected IRS' ability to effectively manage and accurately report on its unpaid assessments. One of the most serious issues we discussed related to IRS's inability to link related taxpayer accounts to ensure that they all receive appropriate credit when a payment is made on one account. This is of particular concern for unpaid payroll taxes and related TFRPs. The unpaid payroll tax of a business and the TFRP assessed against an individual, or individuals, are maintained on IRS' business and individual master files—the detailed databases of taxpayer information for businesses and individuals, respectively. These are two separate and distinct databases that are not integrated. Consequently, if a payment is received

[6]See Internal Revenue Service: Immediate and Long-Term Actions Needed to Improve Financial Management (GAO/AIMD-99-16, October 30, 1998).
[7] See Financial Audit: Examination of IRS' Fiscal Year 1997 Custodial Financial Statements (GAO/AIMD-98-77, February 26, 1998).

from the business, there is no automated entry to record the reduction in the individual, or individuals', TFRP account or accounts. This has led to instances in which IRS has pursued collection against officers of a business for amounts that had already been paid.

IRS has attempted to correct this problem by manually entering a code on related taxpayer accounts to alert IRS personnel that related accounts exist and should be reviewed to ensure that all transactions are appropriately reflected on each account. However, as reflected in table 4, our audits of IRS' fiscal year 1997 and 1998 financial statements have shown that the use of these codes, referred to as cross-references, has not been effective in providing the compensating link between related taxpayer accounts. In fact, in over half of the unpaid payroll tax cases we reviewed during both years, payments were not properly reflected in each related account.

Table 4: Frequency of Payments Not Properly Recorded to Related Taxpayer Accounts Identified in Fiscal Years 1997 and 1998

Fiscal year	No. of unpaid payroll tax cases reviewed in which a TFRP was assessed	Cases reviewed in which payments were not reflected on all related taxpayer accounts	
		Number	Percent
1997	83	53	64
1998	104	54	52

In our fiscal year 1998 audit, we also determined that this problem was not caused solely by the lack of an automated link between IRS' business and individual master files. In 7 of the 54 cases we reviewed in which payments were not properly recorded, IRS failed to credit one individual's TFRP liability account for payments made by another individual who had also been assessed a TFRP for the same business' unpaid payroll taxes.

Additionally, in 52 of the 104 unpaid payroll tax cases we reviewed in fiscal year 1998 in which a TFRP was assessed (50 percent), a cross reference was not present in the master files to alert IRS personnel that the account was related to one or several other accounts. These problems create instances of unintentional taxpayer burden, such as that caused by inappropriate federal tax liens on taxpayers' property, and affect the accuracy of reported balances of both the unpaid payroll tax and the associated TFRPs.

Significant delays in recording payments also affect the completeness and accuracy of the reported amounts for both unpaid payroll taxes and TFRPs. In one instance, we found that payments were recorded to the individual's account over 8 years after they had been received. Additionally, we found that IRS did not always assess TFRPs against responsible individuals in a timely manner. Specifically, we found 2 cases in which IRS did not assess a TFRP against officers of businesses until 36 and 55 months, respectively, after the businesses filed their payroll tax returns and IRS would have become knowledgeable of the tax delinquencies. During this period, these officers received tax refunds. Had IRS assessed the TFRPs more promptly, it would have been able to retain, or offset, the refunds to recover a portion of the balance of unpaid payroll taxes.

Not All Individuals Responsible for Nonpayment of Payroll Taxes Are Assessed TFRPs

In addition to the serious financial management deficiencies and internal control issues that affect the integrity of IRS' data on unpaid payroll taxes and TFRPs, IRS does not track or otherwise systemically maintain information on the number and dollar value of potential TFRPs that are not assessed--the value of which could be significant. Several factors affect whether IRS assesses an individual a TFRP for unpaid payroll taxes.

First, IRS must be able to establish that an individual was, in fact, willful and responsible for the nonpayment of payroll taxes. Some businesses operate in a fashion that allows an individual without direct responsibility to nonetheless indirectly influence the nonpayment of payroll taxes. An example would be a corporate director who, by all established lines of authority, has no direct involvement in the day-to-day operations of the business but who, in practice, is heavily involved in the business' operations. Thus, establishing that an individual was both willful and responsible is not always easy.

In determining whether to assess a TFRP, IRS also considers the amounts involved and the cost associated with pursuing collection actions against the individual. If IRS concludes that the amounts involved do not warrant the cost of pursuing collection, it typically will not assess the TFRP. Additionally, IRS does not assess sole proprietors and partnerships TFRPs for unpaid payroll taxes, believing that it can best pursue collection

against the individuals through their individual tax return filing. Finally, IRS also considers the potential to collect the assessment in determining whether to assess the TFRP.

Consequently, the numbers and dollar value of outstanding TFRPs discussed above likely significantly understate the extent to which individuals are responsible for not forwarding payroll taxes to the federal government.

Collectibility Potential on TFRPs
Is Not Considered Great

IRS' records, our discussions with revenue officers, and our work on a sample of unpaid assessments performed as part of our audit of IRS' fiscal year 1998 financial statements indicate that the potential for significant collections on TFRPs is not great. Status codes in IRS' individual master files for about 76,000 (32 percent) of the 237,000 TFRPs assessed against individuals reflect conditions suggesting minimal likelihood of collection. These conditions include the following:

- the individual cannot be located or contacted,
- the individual is in bankruptcy proceedings or some other form of litigation,
- the individual does not have the ability to pay the assessment, and
- the individual is deceased.

Discussions with revenue officers throughout the country have reinforced the conclusion that TFRP assessments are not highly collectible. Many revenue officers we interviewed believe that less than 30 percent of amounts assessed as TFRPs are ultimately collected. Of the 104 unpaid payroll tax cases we reviewed in fiscal year 1998 in which TFRPs were assessed, we determined that only 8 cases had some potential for collectibility.

SIGNIFICANT NUMBERS OF INDIVIDUALS ARE RESPONSIBLE FOR WITHHOLDING BUT NOT PAYING PAYROLL TAXES AT MULTIPLE BUSINESSES

IRS records indicate that, as of September 30, 1998, nearly 25,000 individuals, or about 13 percent of the 185,000 individuals with TFRPs, have been assessed such penalties for unpaid payroll taxes at more than one business. As shown in table 5, about three-quarters of these individuals have TFRP assessments for two separate businesses, and about a quarter have TFRP assessments at three or more businesses.

Table 5: Number of Individuals With Trust Fund Recovery Penalties for Two or More Businesses

No. of businesses	No. of individuals
2	18,993
3	3,925
4	1,079
5	409
6	192
7-12	235
Over 12	29
Total	**24,862**

Source: IRS UNLCER files and individual master file.

In fact, IRS' records indicate that 7 individuals have been assessed TFRPs at 20 or more separate and distinct businesses. However, we must reiterate that these data may not provide a complete and accurate assessment of the degree to which such "multiple offenders" exist because of the significant deficiencies in IRS' financial management systems and internal controls and because IRS does not always assess an individual a TFRP. Additionally, these data cannot account for those individuals who establish new businesses under other names or otherwise conceal their identity.

Our review of the 191 unpaid payroll tax related cases and our discussions with revenue officers throughout the country confirm that a significant number of individuals are found liable for the nonpayment of payroll taxes at more than one business. Of the 104 unpaid payroll tax cases we reviewed in which TFRPs were assessed against individuals, we found that 30 (29 percent) involved individuals assessed TFRPs for more than one business. In one case, we found that an individual had TFRP assessments outstanding for four separate businesses and had been determined responsible for the nonpayment of payroll taxes at a fifth business. In all instances, the individual established and operated

construction-related (electrical) companies, in which he was both owner and president. Each company accumulated unpaid payroll taxes and then went out of business. Shortly after each company went out of business, the individual opened a new company in the same line of business.

Reasons Individuals Continue
To Have Unpaid Payroll Taxes
At Multiple Businesses

Most of the revenue officers we interviewed believe the majority of the individuals responsible for not paying payroll taxes at multiple businesses do not flagrantly disregard their responsibility to forward such payments to the federal government. Most of the revenue officers stated that the individuals responsible for not paying these taxes lack the skills necessary to properly manage a business. We were told that many start up a business with little capital and quickly find themselves experiencing cash flow problems. In their struggle to stay in business, these individuals prioritize and direct their payments to those recipients without which the business would quickly fail, such as employees' net salaries, rent, and utilities. Eventually the business is unable to sustain even these payments, and it fails. Revenue officers further stated that, unfortunately, these individuals do not learn from some of the mistakes they make, and are soon opening and operating a new business in much the same manner.

However, the revenue officers acknowledged that some individuals intentionally disregard their responsibility to forward payroll taxes to the federal government. One revenue officer noted a case in which an individual was ultimately determined to be responsible for not paying the payroll taxes at three businesses. This individual used family members to conceal his involvement in two of the businesses. He was the president of the first business and had the business assets listed in his name. After this corporation had accrued but not paid substantial payroll tax liabilities, the corporation went out of business and he established a new corporation, listing his wife as president and placing the assets in her name. He subsequently established a third corporation, this time listing his daughter as the president and placing the assets in her name. Both of these subsequent corporations also accrued significant unpaid payroll tax liabilities.

Regardless of an individual's intent, the failure to pay withheld payroll taxes has the same effect on the federal government. In either case the federal government incurs costs to pursue collection of the delinquent tax debt and loses revenue to the extent that such taxes are not ultimately collected. Additionally, as discussed previously, to the extent payroll taxes are not paid, the general revenue fund subsidizes the Social Security and hospital insurance trust funds. As a result, fewer funds are available to finance other federal programs.

BUSINESSES AND INDIVIDUALS RESPONSIBLE FOR NOT PAYING PAYROLL TAXES RECEIVE SIGNIFICANT FEDERAL BENEFITS AND OTHER FEDERAL PAYMENTS

We found that businesses and individuals responsible for withholding but not paying payroll taxes receive substantial payments from the federal government, either for federal benefits or for other payment purposes, such as federal contracts or loans.

Specifically, based on a matching of IRS records of individuals with outstanding TFRPs with certain FMS payment records, we estimate that about 18,800 (10 percent) of these individuals were receiving about $212 million in annual federal benefit payments while owing almost $2 billion in delinquent payroll taxes, as shown in table 6.

Table 6: Delinquent Taxpayers Receiving Federal Benefits at September 30, 1998, and Their Tax Liability Balances ($ in millions)

Payment type	Taxpayers	Estimated annual payments	Tax liabilities at September 30, 1998
SSA	18,199	$200.4	$ 1,902.0
Civilian Retirement	271	3.9	21.5
Civilian Salary	215	6.3	14.1
Railroad Retirement	81	1.0	7.7
Total	18,766	$211.6	$1,945.3

Source: GAO analysis of FMS payments and IRS' records for trust fund recovery penalties.

Additionally, based on a matching of FMS records of payments made to civilian vendors over a 3-month period to IRS' records of businesses with unpaid payroll taxes and individuals with outstanding TFRPs, we found that about 16,700 taxpayers with payroll

tax liabilities of about $507 million at September 30, 1998, received about $7 billion in federal payments over this 3-month period.

Finally, based on our matching of IRS records of businesses with unpaid payroll taxes with SBA's records of outstanding loans as of September 30, 1998, we estimate that about 12,700 taxpayers with unpaid payroll taxes estimated at more than $295 million had received loan disbursements totaling about $3.5 billion. Further analysis disclosed that 38 of these taxpayers, with outstanding TFRPs of about $1.6 million, received SBA loans estimated at $10.6 million after IRS had assessed the TFRPs. In addition, 1,719 taxpayers (businesses and individuals) with unpaid payroll taxes of about $31.6 million received SBA loans estimated at $448.7 million after accumulating these tax delinquencies.

However, any conclusions drawn from this analysis must consider the potential problems with the reliability and completeness of IRS data due to the serious financial management system deficiencies and internal control weaknesses discussed previously.

FACTORS AFFECTING IRS' ABILITY TO ENFORCE COMPLIANCE OR PURSUE COLLECTION OF UNPAID PAYROLL TAXES

Several factors affect IRS' ability to enforce compliance with respect to the payment of payroll taxes and to pursue collections of unpaid payroll taxes from businesses or responsible individuals. These factors are discussed briefly below.

Financial Management System Deficiencies and Internal Control Weaknesses Affect Accuracy of Taxpayer Account Status

As discussed previously, the lack of an automated link or interface between IRS' separate taxpayer databases for businesses and individuals leaves IRS no assurance that its records for an individual taxpayer or business are complete and accurate. IRS efforts to date to address this lack of linkage have not been fully effective in ensuring the accuracy of taxpayer accounts. In addition, delays in assessing individuals TFRPs result in missed opportunities to collect amounts through such means as retaining or offsetting refunds against unpaid payroll taxes.

Taxpayer Education and Early Warning Programs Are Not Considered Effective

IRS has two programs to prevent payroll tax delinquencies: the (1) Small Business Tax Education Program and (2) FTD Alert Program.

The Small Business Tax Education Program attempts to prevent payroll tax and income tax delinquencies by offering education programs and tax workshops to individuals wishing to start up a business. Despite its purpose, many of the revenue officers we interviewed nationwide noted that this program has not been very effective in reducing or preventing delinquent payroll taxes. Others noted that the individuals in most need of attending these workshops did not appear to be present.

The FTD Alert Program is intended to identify and prevent potential payroll tax payment delinquencies through early identification of required deposits under the FTD system that have not been made. The Alert Program targets larger employers who deposit semiweekly (those who reported more than $50,000 in payroll taxes on their quarterly Tax Form 941 filings during the previous 12-month period). Information regarding taxpayers who failed to make their deposits is transferred to tapes, which are sent to the service centers for printing of alert notices and mailing to the respective district offices.

Some revenue officers noted that the alerts are not received in the field early enough to prevent employers from accumulating substantial delinquencies or to provide early

warning of potential problems. Some of the revenue officers also noted that the alerts received were often invalid or unproductive. Often the taxpayer's case has already been designated as delinquent, or the taxpayer has actually gone out of business before the revenue officer makes contact. In other instances, the employer has already paid the delinquent payroll taxes between the time the FTD alert is issued and received in the field and the contact is made with the taxpayer. Some revenue officers also stated that the FTD alerts yield few collections compared to the effort expended in processing the alerts.

Certain IRS Procedures Limit
Collection and Prevention Efforts

According to several IRS field office representatives, another factor that inhibits IRS' ability to collect delinquent payroll taxes and to prevent taxpayers from accumulating multiple payroll tax delinquencies is that IRS' Criminal Investigation Division (CID) and District Counsel do not prosecute taxpayers for failing to pay payroll taxes unless fraud is clearly evident. Field office personnel noted that even in instances in which the taxpayers are multiple offenders, CID and District Counsel appear reluctant to pursue prosecution. A few field personnel noted that IRS could seek injunctions through the U.S. Attorney's Office to prevent taxpayers from accumulating multiple payroll tax delinquencies and that the District Counsel prefer not to seek such injunctions due to the time and expense required to prosecute such cases.

Federal and State Laws Also Inhibit

Compliance and Collection Efforts

Federal and state laws also affect IRS' ability to enforce compliance with respect to payment of payroll taxes or to pursue collections on delinquent payroll taxes. Under section 6103 of the Internal Revenue Code, IRS is precluded from sharing tax information with state licensing authorities that have the power to grant or deny business licenses for new and existing businesses. Therefore, IRS is inhibited in its ability to prevent individuals responsible for the nonpayment of payroll taxes from starting up a new business and repeating the practice. Some Collection Division field representatives noted that due to the same disclosure prohibitions, IRS is unable to publish the names of delinquent taxpayers to increase compliance and generate collections, a process that has been used with some success by a number of states and local taxing authorities.

One IRS field representative we spoke with also mentioned that in California, the posting of bonds by a new business for state payroll taxes is required as a prerequisite to the granting of a new business license. In this manner, the state is protected to some degree in the event of nonpayment of state payroll taxes. This avenue is currently not available to the federal government for federal payroll taxes.

According to some IRS field representatives, the agency's ability to pursue collections of delinquent payroll taxes and associated TFRPs is also inhibited by the property laws of some states, as well as varying interpretations of bankruptcy laws. According to some

representatives, in a number of states, IRS is unable to enforce collection of delinquent taxes and penalties because state laws preclude attaching liens to, and seizing, personal property. States in which Tenancy by the Entirety[8] or Marital Joint Property laws exist limit the assets available for IRS to attach or seize. Also, according to an IRS official, a business under Chapter 11[9] Bankruptcy Reorganization can continue to operate at the bankruptcy judge's discretion. This can result in the business incurring additional tax delinquencies.

Other Factors IRS Employees Cite
As Affecting Enforcement and
Collection of Unpaid Payroll Taxes

In addition to the factors discussed above, Collection Division field representatives cited other factors which, they believe, affect their ability to enforce compliance and pursue collections on delinquent payroll taxes and TFRP assessments. Several field representatives stated that the current level of collection staff is not sufficient to effectively prevent, collect, and monitor delinquent payroll taxes and TFRPs, and that revenue officers are increasingly being required to spend time supporting IRS' Customer Service and other functional areas instead of working on collection issues. Field representatives also said that certain provisions of the Restructuring and Reform Act of 1998, which was enacted to provide fairness to taxpayers, could lengthen the time it takes

[8]Tenancy by the Entirety is one form of jointly held property in which the property is co-owned with a spouse. Each spouse owns 100-percent of the property at all times.
[9]In general, Chapter 11 is a reorganization proceeding of an individual, business, or other entity in which creditors are paid under a plan.

revenue officers to work cases and result in fewer cases being resolved, and expressed uncertainty about how to operate under certain provisions that contain penalties for IRS personnel if the rules are not followed.

Ability to Offset Federal Benefits
and Other Federal Payments
Has Yet to Be Achieved

Federal law does not prevent businesses or individuals from receiving federal payments or loans when they are delinquent in paying payroll taxes. While IRS can retain, or offset, refunds otherwise due businesses or individuals to recover some or all of the delinquent taxes owed, up to this point it has not been able to systematically pursue other federal payments made to these taxpayers to recover delinquent taxes.

The Debt Collection Improvement Act of 1996, enacted under the leadership of this subcommittee, called for the centralization and aggressive pursuit of delinquent non-tax federal receivables, including delinquent loans and other forms of payments owed the federal government. Treasury also intends to include the collection of federal tax debts as part of the mechanism it is developing to pursue collection of non-tax federal receivables as mandated under the act. In doing so, Treasury is using as its legal authority a subsequently passed provision in the Taxpayer Relief Act of 1997. This provision grants IRS the authority to place a continuous levy on a delinquent taxpayer's

federal benefits to assist in recovering overdue taxes. Implementation of the continuous levy provision is expected to begin in July 2000.

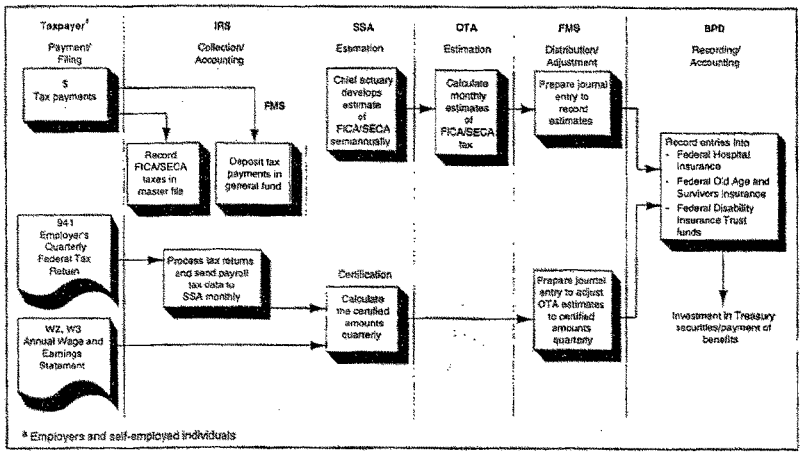
Treasury's plan has been revised on several occasions, as it and other affected agencies try to address complex implementation issues to avoid undue harm to individuals. This will be of particular concern with respect to Treasury's plan to include unpaid tax assessments as part of its federal debt collection efforts. There will be a critical need to address IRS' significant financial management systems deficiencies and internal control weaknesses to ensure that taxpayers are not unduly harmed through the levying of federal benefits and other payments to repay amounts that have already been collected.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions you or other members of the Subcommittee may have.

Contact and Acknowledgment

For future contacts regarding this testimony, please contact Gregory D. Kutz at (202) 512-3406 or Cornelia Ashby at (202) 512-9110. Individuals making key contributions to this testimony included Steven J. Sebastian, Ralph Block, Paul Caban, and Patrick McCray.

Attachment Attachment



(901796)

Mr. HORN. We thank you very much for that helpful statement. We are going to have a round of questions, each of us 5 minutes. I will start this one and then Mr. Turner will be next and then Mrs. Biggert.

Let me just clarify a few things here. You have noted the businesses, and the ones that are very marginal: restaurants, small construction firms, so forth. Did you have a chance to look at the degree to which nonprofits, 501(c)(3) tax-exempt ones, did they default on some of these matches? Did you have an example like that?

Mr. KUTZ. No, we didn't see any in our sample, but we did speak to IRS revenue officers who were responsible for that area and found that generally it's the same. It's very, very small not-for-profits that in some cases do not pay their payroll taxes. But it is not any large not-for-profits.

Mr. HORN. Do we have any idea how large that universe is and what the default rate is? You are saying it is about the same?

Mr. KUTZ. I don't know if it's the same.

Mr. HORN. If the taxes are not being deposited in the particular general account, as I understand it, it comes in with a coupon that is an excise tax, but it really doesn't tell which tax it is, it's just sort of lumped in; is that right?

Mr. KUTZ. Right. When the money comes in, it is generally not identified. Although with IRS' new electronic tax payment system, some of the taxpayers are now identifying how much is collected for the various types of taxes. One of the problems with that is that IRS currently does not have the systems capability to summarize that data by tax type. But they are not requiring taxpayers to send the information in with the money that tells where the taxes should go.

Mr. HORN. Someone listening to this hearing is going to say, My heavens, do I have Social Security credits, do I have Medicare credits? What could you tell them? Do they still get their credits even if their employer is running off with the money?

Mr. KUTZ. Yes, they do. Essentially there is a subsidy to the Social Security and Medicare Trust Funds to the extent that payroll taxes are not collected. So the taxpayers do get made whole at the end of the day.

Mr. HORN. You are sure of that? We will ask the Commissioner the same question.

Mr. KUTZ. It's basically coming out of the general revenue fund of the Federal Government.

Mr. HORN. It's very clear from your data that the Small Business Administration needs to get on board with us and perhaps have on one of the loan sheets before they grant any loans "Have you paid all of your taxes?"

Mr. KUTZ. Mr. Chairman, I would say that it's not just the SBA. They are the only loan program that we looked at. This would potentially apply to any of the loan programs in the Federal Government.

Mr. HORN. So Farmer's Home Administration and all of the rest of them?

Mr. KUTZ. It could be. They were beyond the scope of what we did for this review.

Ms. ASHBY. Mr. Chairman, if I may add with regard to SBA, they do in fact as prospective buyers, whether or not they have delinquent taxes. But apparently because we did find several instances of SBA loans to such people, that that's not a deterrent from them getting the loans.

Mr. HORN. We have noticed that before. That's why we put the debt collection bill on the books. Some guy had taken $3 million in one part of the State from the same agency that he had taken several million from the other part of the State. There are a few rascals out there, let's face it.

I am going to yield the rest of my time to Mrs. Biggert and then she can have her own time. I have 2 minutes and then we will call Mr. Turner.

Mrs. BIGGERT. Thank you, Mr. Chairman. Could you go over the early warning signs or the early warning program a little bit? How long does the nonpayment go on? Is there a shutdown? What happens?

Mr. KUTZ. I will give you an overall answer and then let Mr. Sebastian elaborate. Typically it takes months and sometimes it could take over a year before the FTD alert would get into the field officer's hand to go and knock on the taxpayer's door, asking where are the taxes, et cetera. It takes a long time for the actual alert to get out into the field. Taxpayers file their tax returns about a month and a half after each quarter, but the alert sometime goes out later than that. Many times, by the time the FTD alert gets into the field, the business' doors are shut and boarded and it's all over.

Mrs. BIGGERT. Then what is the recourse, just to have the debt collection?

Mr. KUTZ. The recourse is to determine if some of the officers were willful and responsible in that case, or there still could be possibilities where there is money that could be taken out of bankruptcy proceedings. The next step would be to determine whether or not anyone was willful and responsible for these withheld taxes and to pursue the officers or whoever that might be.

Mrs. BIGGERT. Did you have any knowledge of anyone, then, say a construction company; it seems like—do they change names and then startup another company?

Mr. KUTZ. Yes, they do. They would change the name from—let's use me as an example—Greg's Construction Co. to Greg's Green Construction Co. Something minor, probably. But the business is in the same location in many instances. They change the name on the lease or whatever the case may be, but it would be similar business names.

Mrs. BIGGERT. You said that probably the one thing that States can't do—or can't get the Federal tax records from these people when they incorporate a business or anything. Is there any way with that incorporation that it could be acknowledged that they had—where they had companies either in that State or in other States, and what the financial outcome of that company was?

Mr. KUTZ. If IRS could share delinquency information with the States, that information could definitely be used in granting or renewing business licenses, but section 6103 of the Internal Revenue

Code does not allow for sharing of information unless the taxpayer consents. So right now that's not being done.

Mrs. BIGGERT. Is there anything else, laws that we have, that cause us not to be able to find out or collect the debts?

Ms. ASHBY. In some instances, State property—not property taxes, but State property disposition laws or ownership laws inhibit IRS from perhaps collecting some amounts that they could otherwise. If, for example, a State has ownership by the entirety, and a husband and wife—but only one is delinquent on taxes—then the IRS can't pursue that property because it's owned jointly on that basis.

Mr. HORN. We will have to continue that in the next round. The gentleman from Texas, Mr. Turner, 5 minutes for questioning.

Mr. TURNER. Thank you, Mr. Chairman. Ms. Ashby, you were talking a minute ago about the fact that SBA, before they disperse the proceeds of the loan, they do ask whether the borrower is current in their payroll taxes. Is there some kind of certification, or just merely asking across the table as you routinely go down a checklist of things at loan closing?

Ms. ASHBY. It's one piece of information that is requested on the loan application. The prospective borrower is asked if they have delinquent taxes and, if so, on a separate part of the form they are to provide information about who is owed, how much, the nature of the debt and that sort of thing.

Mr. TURNER. So the question says, do you owe them or not? And if they say they don't owe them, then they go right on?

Ms. ASHBY. That's correct.

Mr. TURNER. Couldn't the SBA require some kind of evidence to be produced by the borrower that the taxes are current? Couldn't you secure that kind of information? Couldn't the taxpayer either get it from the IRS or bring it in based on their payroll deposits and that kind of thing?

Ms. ASHBY. That's certainly possible. As Mr. Kutz said, in terms of disclosing taxpayer information, any instance in which a taxpayer authorizes IRS to disclose the information, IRS can do so. In your question and answer to your question, yes, a taxpayer could somehow provide certification that taxes are current.

Mr. TURNER. You are saying that if there is a remedy here, it may be one that could be implemented simply by SBA regulations, and I would welcome your assistance in coming up with a suggestion to the SBA that maybe Mr. Horn and I might consider sending to the SBA, requesting them to modify the regulations, because it does seem totally inexcusable for somebody to get a loan or disbursements under a loan when they owe payroll taxes. That ought to be paid first.

Mr. HORN. The gentleman is absolutely correct, and that will be done. We will jointly send them a little note.

Mr. TURNER. If you could help us come up with what the right suggestion is, we would appreciate it.

Ms. ASHBY. Please note, as Mr. Kutz said, it's not just SBA. There are other government agencies, Department of Education with student loans, for example. There are other departments that issue loans, make grants to delinquent taxpayers.

Mr. TURNER. We would welcome any suggestion along that line, because it seems to me that the agencies themselves would have the power to remedy that through their regulatory authority.

Mr. SEBASTIAN. Mr. Turner, there is actually some guidance that was put out by the Office of Management and Budget in Circular A–129 that specifically covers this particular circumstance in looking through a loan application, making a determination as to whether the applicant is delinquent on any—including Federal tax debt—and if so, the OMB circular would indicate that you should deny the applicant the loan.

Mr. KUTZ. It's kind of a good government type of circular, but it's a circular. I don't think that it has any legal binding.

Mr. TURNER. It requires you to ask, but not ask for any underlying supporting evidence that you have in fact paid your payroll taxes.

Mr. SEBASTIAN. And would indicate actually denying the applicant if in fact it is disclosed that they have tax delinquencies.

Mr. TURNER. In an SBA loan situation, is it not fairly common that a disbursement might occur over a period of time under a loan, or is most of the loan made all at once, Ms. Ashby?

Ms. ASHBY. I would assume so, but I am not that familiar with SBA loans. That would seem reasonable.

Mr. TURNER. If you could help us with a suggestion to tighten up on that, it seems like that certainly could be remedied. I notice in California they have the requirement that a new business post a bond before they can be in business. Do you think some bond requirement would be appropriate to ensure the payment of payroll taxes?

Mr. KUTZ. That is effective in the State of California and that is one of the things that some of the IRS revenue officers we spoke to nationwide mentioned, particularly in that area of the country, as a potential remedy to this. It is not a remedy, but it certainly could protect the Federal Government more than they are now.

Mr. TURNER. What would be the pros and cons of a bond requirement for payment of payroll taxes?

Mr. KUTZ. Well, the pros would be in the Federal Government's favor, and the cons would be that it would probably cost the business a little bit more to startup. Businesses would have to pay a fee to post the bond. So there would be a little bit more cost. There also might be a little more time involved in starting up the business.

Mr. TURNER. I guess it would create an enforcement problem if we did not have the cooperation of the States to do it? I assume that if we had cooperation from the States, a corporate charter maybe was not issued until a bond was posted; but in the case of sole proprietorships, it might be hard to ensure that we get the bond at the outset, at the inception of the business.

Ms. ASHBY. I would like to add just a cautionary note. When dealing with how to handle government contractors and so forth, there are extenuating circumstances sometimes, such as sole source for some critical service or good. So all of that needs to be taken into consideration in individual cases. It's hard to generalize and come up with one way of dealing with Federal contractors.

Mr. TURNER. What's the main objection to providing in the law that civilian benefits and payments under contracts with the Federal Government will not be made if there are delinquent payroll taxes? What's the downside? What is the objection?

Ms. ASHBY. I was going to say the main problem now is the system deficiencies and internal control weaknesses in IRS' own records. Before one would do something like this, one would want to make sure that the tax is actually owed. Because of system deficiencies and timing differences between the time a debt actually occurs and when it becomes—when the revenue office becomes aware to do something about it, the tax may have been paid.

Mr. KUTZ. You don't want to have somebody having their Social Security paycheck garnished when in fact they don't owe taxes. And that possibility exists, given the systems problems that we have at IRS today.

Ms. ASHBY. All sorts of considerations that the IRS and the Federal Management Service are currently trying to resolve in order to have a system in place by July 2000 to actually levy such payments.

Mr. TURNER. Thank you, Mr. Chairman.

Mr. HORN. Well, thank you. Let me just ask a question or two to followup on it. I think Mr. Turner has an excellent suggestion there. There is no law that says Federal agencies can't share information. In fact, they can. Now, is the IRS compatible enough in its computerization of this that it would interface with, say, agriculture loan agencies, HUD loan agencies, SBA and all of the others? Is that possible?

Ms. ASHBY. IRS can in fact share tax information for certain purposes under section 6103 of the Internal Revenue Code. It can share such information with State and local governments as well, but only for certain specified purposes.

Mr. HORN. That's only limited to the States, not the Federal agencies; is that right?

Ms. ASHBY. No. The fact is that IRS does share taxpayer information with several Federal agencies, Federal departments, and several States and local jurisdictions as well. But for specific purposes such as for the Department of Education to determine whether or not to make a student loan, for local agencies to determine whether or not someone qualifies for welfare benefits, for example, there are specified reasons where such information can be shared. And as of now, none of those reasons cover the instances that we are talking about today.

Mr. HORN. So there is no problem, then, on interoperability or compatibility——

Ms. ASHBY. I am sure there are some. I don't know the exact nature or the extent of them and what it would take to overcome them. I am familiar somewhat with the Department of Education, because I worked in that area in GAO. There were systems problems that the Department of Education had to overcome to be able to accept the information from IRS and to be able to use it in its systems. I would imagine that's true for other agencies as well.

Mr. HORN. When your team, Mr. Kutz, saw one person go in and out of business five times, it's clearly playing games with the tax collector. Did anybody check to see what the U.S. attorney in that

area was doing, and had the IRS put that file into the office there? That's a clear pattern and practice, as far as I am concerned.

Mr. KUTZ. I don't recall, but the pattern is very clear. What you will see is several quarters, let's say in 1994, where the taxpayer doesn't pay or the business doesn't pay. Then the business appear to shut the doors, and then a year and a half or half year later, whatever the case may be, three or four more delinquencies for a separate related company. And that ends, and then you will see another company. So the pattern was clear. I don't recall specifically whether or not that case was being pursued.

Mr. HORN. OK. Mrs. Biggert, 5 minutes for the vice chairman.

Mrs. BIGGERT. Thank you, Mr. Chairman. You mentioned that the Federal Government is really subsidizing Social Security and Medicare Trust Funds when these taxes have not been paid from the general revenue fund. Do you have any idea how much of this—is this on an annual basis or cumulative basis?

Mr. KUTZ. It is likely several billion dollars annually. We have done an estimate of the cumulative subsidy, including self-employed or SECA taxes, and at September 30, 1998, we estimated that the subsidies were about $38 billion. That included accumulated interest over time. This estimate is understated to the extent that taxpayers have rolled off of IRS' system.

After 10 years, there is a collection statute where the taxpayers fall off of IRS' system. So anything that is not on the systems anymore would not be included in that $38 billion estimate. On an annual basis, the subsidy is several billion dollars. Cumulatively it's been tens of billions.

Mrs. BIGGERT. Is the IRS in a position to be able to tell us how much has been collected for their trust funds, or a report from you?

Mr. KUTZ. They concurred with the $38 billion estimate cumulatively. They may have a better idea how much the annual amount is.

Mrs. BIGGERT. Then I think you mentioned in your written statement that States like Connecticut publish the names of delinquent taxpayers to increase the compliance and generate collections. Could this be done for Federal payroll tax?

Mr. KUTZ. Not right now with the Internal Revenue Code restrictions. And I would again caution, as Ms. Ashby did a moment ago, on the data quality at IRS. You don't want to be publishing taxpayer names unless you are certain that the taxpayers actually owe, or the amount is correct.

Mrs. BIGGERT. Just because of the timing with people paying and by the time it's published they have already paid?

Mr. KUTZ. Right.

Mrs. BIGGERT. Then you report that the IRS and the Department of Treasury are not offsetting any Federal payments against unpaid payroll taxes. Does the current law authorize the Federal Government to intercept or withhold Federal benefit payments to satisfy the delinquent payroll taxes?

Mr. KUTZ. Yes, it does. Under the Taxpayer Relief Act of 1997, there is a continuous levy provision that allows the IRS to levy up to 15 percent of Federal benefit payments to offset tax debt. That provision is planned to be done maybe mid—next summer.

Ms. ASHBY. July 2000 is the current plan. It has not started yet.

Mr. KUTZ. It has not started yet. It will be rolled into the overall—under the Debt Collection Improvement Act, the overall offset program for the Federal Government.

Mrs. BIGGERT. Then the Internal Revenue Code authorizes the IRS to enter into installment agreements with taxpayers only if the agreements are for the full amount of the liability. You reported that as part of its fiscal year 1998 financial audit, that the IRS' uses of installment agreements does not comply with the IRS code?

Mr. KUTZ. That's correct. I will give you an overall example, and then Mr. Sebastian has some examples from the trust fund recovery penalty work that we did. We found that for over half of the cases we looked at, the IRS was in violation of that law. One of the violations that we found as part of our 1998 audit was a $25 a month installment payment on a $16 million tax debt. Mr. Sebastian has a couple more that he can share with you that we found in this work.

Mr. SEBASTIAN. Yes. In two cases where we had unpaid payroll taxes, one of the situations was a sole proprietorship and there was no trust fund recovery penalty assessed. The outstanding tax amount was about $220,000 for the unpaid tax. The payments that were required under the installment agreement were essentially $25 a month, which would have yielded less than $2,000 prior to the expiration date of that particular unpaid tax assessment.

We had another situation in which—this was a corporation—two officers were assessed trust fund recovery penalty assessments. One officer entered into an installment agreement. The total dollar amount of the trust fund recovery penalty assessment was about $3.3 million. And here again when you calculate out the monthly payments up to the point in time when that particular tax account falls off the IRS' records, the IRS would have collected $11,000.

Mrs. BIGGERT. When they entered into that agreement, does that mean that that agreement satisfies their payment?

Mr. KUTZ. That's what the law requires. But what we are telling you is that is not what is happening as of the 1998 financial audit. What IRS is supposed to do when accepting less than 100 cents on the dollar, so to speak, is to go through what is called an offer and compromise program where they are able to accept less than 100 cents on the dollar.

The issue with that is there are more stringent procedures to review the taxpayers records. I suspect that's one of the reasons why maybe some of the officers are circumventing that process to do an easier process which—you can do an installment agreement right now by telephone, is my understanding.

Mrs. BIGGERT. So what you are saying is that they entered into that agreement and that has satisfied the IRS as far as the payment of those taxes?

Mr. KUTZ. It satisfied the revenue officer that entered into the agreement, but it did not pay the full amount of the tax liability, yes.

Mrs. BIGGERT. Is that tax liability still on the books or have they wiped out the tax owed?

Mr. KUTZ. As Mr. Sebastian said, it would go off the IRS' records after the 10-year statute of collections, yes. So it will go away eventually.

Ms. ASHBY. Let me add that with respect to OMB circular A–129, if there is an installment agreement and an agency contracts or issues a loan or grant to that taxpayer, that is in accordance with the OMB circular, if there is an active installment agreement and the taxpayer is making the installments.

Mrs. BIGGERT. About how many of these agreements did you find that were not tending to the law?

Mr. SEBASTIAN. This finding came out of our work on the fiscal year 1998 financial statements of the Internal Revenue Service. There were 93 cases out of a total sample size of 690 unpaid tax assessment cases. In 48 of the 93 cases where there were installment agreements, we found the situation where the total amount to be collected under the installment agreement would not satisfy the outstanding tax debt.

Mrs. BIGGERT. Were most of these companies that had gone out of business? Were the officers paying this or the companies?

Mr. SEBASTIAN. These 93 cases are really across the spectrum. There are some businesses, there are also a number of individuals.

Mr. KUTZ. Many of those were for delinquent 1040 or individual income taxes.

Mrs. BIGGERT. Thank you, Mr. Chairman.

Mr. HORN. Thank you. I think we will all have calls from our constituents when we get back to the office as to where you get this million dollar loan and only pay $25 back? Did I hear that correctly?

Mr. KUTZ. That is correct.

Mr. HORN. What kind of tax was this, or was this a benefit out of a Federal agency that wasn't the IRS?

Mr. KUTZ. The ones that Mr. Sebastian mentioned were for trust fund recovery penalties where there was $150 being paid a month on a $3 million balance. Most of these were——

Mr. HORN. It sounds like terrific terms. Were they serious, or was their brother Uncle Louie or something? OK. The gentleman from Texas, Mr. Turner, 5 minutes.

Mr. TURNER. Let me be sure that I understand. In these instances, Mr. Sebastian, these 48, the IRS had agreed to accept less than the amount owed, but they had not gone through the offer compromise program that would allow that?

Mr. SEBASTIAN. That's correct.

Mr. TURNER. And you mentioned that if this amount is not paid within 10 years, that it goes off the IRS' collectibles. Is that because there is a 10-year statute of limitations?

Mr. SEBASTIAN. That's correct.

Mr. TURNER. Would it not be appropriate that if a taxpayer is willing to enter into a—whether it is an offer in compromise or whether they just simply enter into an installment plan, that as a part of that agreement the statute of limitation is tolled? Knowing in the private sector any time that you acknowledge a debt, you pay on a debt, you extend the statute of limitations that would otherwise run the collectibility of that debt against the debtor.

Mr. SEBASTIAN. Yes, Mr. Turner. In fact, that can occur as well. The taxpayer can waive that statutory expiration period. In these cases they did not.

Mr. KUTZ. We have seen that before as part of our test work.

Mr. TURNER. It would seem to me that there should be some requirement that if you are going to get the benefit of installment payout or the benefit of offer and compromise program to reduce your tax liability, that automatically the statute of limitations is tolled against the debt that you are tying to pay. Would there be anything wrong with that being a part of the law?

Mr. SEBASTIAN. Not to my knowledge.

Mr. TURNER. Is it statute that says that the taxpayer has the option to enter into an installment payout, but at the taxpayer's option they can see if I can't pay it in 10 years the debt is gone? Is that the taxpayer's option under law or is that regulatory with the IRS?

Mr. SEBASTIAN. Under the specific provisions of the Internal Revenue Service covering installment agreements, that is, in essence, the situation unless the taxpayer consents to tolling, as you indicated, the statutory collection period.

Mr. TURNER. So the only leverage that the IRS has is to try to negotiate some kind of installment payout and also negotiate by trying to persuade the taxpayer to waive the 10-year statute of limitations.

Mr. SEBASTIAN. That section of the Internal Revenue Service, as currently written, that's correct.

Mr. TURNER. I think we could strengthen the tax collector's hand if we just set in law that if you are going to take advantage of a payout agreement and installment payout of your tax liability, if you are going to take advantage of a compromise settlement, then you have got to be willing to waive the statute of limitation. Is that being too harsh? Am I thinking incorrectly here? Is there any downside to my suggestion?

Mr. SEBASTIAN. None that I can think of.

Mr. TURNER. Mr. Kutz, am I off base here?

Mr. KUTZ. No, that is certainly a possibility for improving the IRS' hand in this.

Mr. TURNER. What is the defense that the taxpayer would levy to argue against this suggestion? Is it unduly harsh or unreasonable?

Mr. KUTZ. They would have to pay more at the end of the day. Let me just say one thing on installment agreements. When we did report to you before that IRS was going to collect, I believe, $26 billion out of the $222 billion of unpaid taxes, much of what we did see that was collectible was from installment agreements.

On the other side of the coin, the IRS has collected billions of dollars through these installment agreements. There are many installment agreements where the taxpayer is full paying the module. But again, as Mr. Sebastian said, we did find about half of the installment agreements were being done inappropriately.

Mr. TURNER. Ms. Ashby, what would you say to my suggestion?

Ms. ASHBY. I know of no reason why your suggestion would not be appropriate. I was going to say that the issue here is the particular vehicle that IRS is choosing to use to collect from the taxpayer. To the offer and compromise program, it would be perfectly acceptable for the IRS to accept less than 100 percent of the debt, not so through the installment agreement program. Apparently that is, in essence, what is occurring. The IRS can deny a request

for the installment agreement, they can deny a request for offer and compromise. It can, as far as I know, stipulate certain requirements such as a waiver of the statutory statute of limitations.

Mr. TURNER. Well, it seems to me that the law should work for the IRS and the Federal Government just like it does, I know at least in my State, and that is the statute of limitations doesn't start running until you have failed to make a payment. Any time you owe a debt and you continue to make a few payments along, the statute of limitation period runs from the date that the last payment was made.

There is some valid reason for having a statute of limitation, but it just seems to me that in the case of a collection of Federal taxes, the statute of limitation runs from the date—is this correct, Mr. Sebastian—the date of the inception of the obligation, or the date of the original levy, that we lose an important tool that every other private sector debt collector understands and takes advantage of; that is, the statute does not run until someone has refused finally to make a payment?

Mr. SEBASTIAN. Yes. One other statistic that I might point out is we apprised the IRS of the noncompliance situation during the course of the 1998 audit. The IRS responded by issuing some guidelines to its collection division and revenue officers, staff, that tightened up the standards through which the installment agreements would be entered into; i.e., calling for 100 percent payoff of the tax liability.

If you take a look at some of the recent statistics that were published by the IRS, they are showing a significant drop in the number of installment agreements through the first half of 1999 in comparison with the prior 2 years. So this may be a factor, the fact that they are going back now and tightening their policies with regard to when they would grant or enter into an installment agreement.

Mr. TURNER. If a taxpayer enters into an installment agreement or a compromise—which I think are valid tools, they are used in the private sector, they are important ways to try to collect the debt—but if they do that, and then they fail to keep their agreement, does IRS then——

Mr. SEBASTIAN. They have the ability to go back and pursue the entire tax debt; that is correct.

Mr. TURNER. I think if we can change the statute of limitation problem, we would be making a significant improvement in our ability to collect our taxes.

Thank you, Mr. Chairman.

Mr. HORN. You are quite welcome. Let me ask you, when you went over these various collection horrors, did you look at what IRS had done to recoup them and did they use it with their own revenue officers, or did they have private collectors? Did you ever try to see any efficiencies and effectiveness in, say, private collectors versus revenue officers or revenue officers versus private collectors?

Ms. ASHBY. Well, to the extent that IRS issues private collectors—and to date, that has been only in a pilot program—the collectors did not actually take the final actions to collect the tax.

They simply located the taxpayer and contacted the taxpayer initially.

In the pilot, one pilot that has occurred, the results were not very successful, not very encouraging. It ended up costing IRS more to use the private debt collectors. Because of certain provisions in IRS' contract with the private collectors, it cost the IRS more than the collector——

Mr. HORN. Explain to me how.

Ms. ASHBY. Well, for example, one of the provisions allowed a fixed fee to the collector for locating and contacting a taxpayer. It wasn't contingent upon collecting anything or it wasn't a percentage of amount collected. So because of the fixed nature of the fee, in spite of the result, that in and of itself cost IRS quite a bit. In the case of the pilot, IRS had to take some of its collection employees——

Mr. HORN. But you said that they are only going to get the person at a certain address? I would have thought that IRS would have given them the address.

Ms. ASHBY. In lots of those instances IRS does not have a good address. They may have an address but are not able to contact the taxpayer at that address.

Mr. HORN. Well, then, doesn't it make some sense that if a private collector finds them and refers them to IRS, that's money they wouldn't have had?

Ms. ASHBY. If they in fact collect, if they are able to collect based on that information. You might want to ask IRS about this later, but it was IRS' determination that it could not legally use private collection agencies beyond the point of locating and contacting the taxpayer. So any face-to-face meetings, any particular levying or anything else IRS had to do itself, they had to take its collection of employees to pursue those taxpayers.

In the particular case of the pilot, there were a substantial number of delinquent taxpayers that were what IRS considers deferred, they owed a small amount of tax. And with deferred delinquencies, IRS' practice is to collect that money through offsetting refunds. In these cases, a large percentage of those were part of the pilot so——

Mr. HORN. Which pilot are you talking about, the one 2 years ago under the previous Commissioner?

Ms. ASHBY. That's right.

Mr. HORN. Yeah, well that was as phoney as they make them. They gave them 5-year-old debt and expected them to come in some with something.

Ms. ASHBY. That's the only action to date. There has not been a subsequent pilot.

Mr. HORN. We ought to be taking a look at that, but we can discuss it with the new commissioner.

Let me just ask two closing questions on my part. In your statement, you mentioned the extreme case of where the payroll tax money was diverted to an individual that used the money to build a swimming pool. Could you give us a little more detail on that case and how many of those did you find?

Mr. KUTZ. Yes, we can give you more detail on that, and I guess the case—it's much worse than I described. Mr. Sebastian has the

details on that, and he will walk you through that briefly. It's quite interesting.

Mr. HORN. OK. Mr. Sebastian, it's all yours.

Mr. SEBASTIAN. OK. This business actually was heavily involved in Federal contracts, had contracts with the Department of the Navy as well as other Federal entities.

Mr. HORN. That's the swimming pool?

Mr. SEBASTIAN. Exactly. In fact, the business' revenues, about 65 to 85 percent of their revenues over a 2-year period came from Federal contracts. The business withheld but did not pay forward to the Federal Government payroll taxes in excess of $2 million. The IRS determined through interviews with the former comptroller as well as other third-party information that some of those funds were actually being diverted to an affiliated company of one of the officers to purchase equipment, trucks, et cetera.

The IRS also determined that other funds—other of the company's funds were being used to pay the estimated tax liabilities of one of the officers to pay for the purchase or the installation and maintenance of a swimming pool, to pay off the company president's wife's car loan, to purchase a tractor for home use, and to pay for the maintenance of——

Mr. HORN. This is the suburbs or the farms?

Mr. SEBASTIAN. Excuse me?

Mr. HORN. That was in the suburbs or the farms?

Mr. SEBASTIAN. I can't recall the exact location, and I can't recall exactly what the size of the tractor was. So there were more diverted payments beyond those for the maintenance of the swimming pool. And, again, the diversion occurred at the same time that these payroll taxes were being withheld and should have been remitted to the Federal Government.

Mr. HORN. Yes. What about some of the reasons that individuals continue to have unpaid payroll taxes at multiple businesses? Is it simply poor business management or intentional disregard for the individual's responsibility to forward the payroll taxes? What's your judgment on that? Are they just over the edge and they feel, gee, if I invest that money and my company will make it?

Mr. KUTZ. In most cases, I believe it's poor business judgment. Cash flow problems come up, and they're faced with a choice of paying the utility bill, the rent, or IRS. And I believe IRS falls to the bottom of the list. And I don't think that they really fully understand what they're doing. I mean, I would kind of look at this—similar to a 401(k) plan, where you're withholding money from employees to send to the Federal Government, and you're not paying it.

I don't believe everybody fully understands that they're in kind of a trustee capacity here as an officer of a corporation.

Mr. HORN. Mrs. Biggert, any more questions?

Mrs. BIGGERT. Thank you, Mr. Chairman.

I think overall our job and your job is to talk about the collectibility and what happens to the taxpayer. I mean, we've all ended up having to pay for this. And it seems like we've got the education program and we've got the Alert program and we've been talking about maybe legislatively with the statute of limitations to tell that. I think that's an issue we have to look at. Because I think

the installment program has brought in some money, and whether that will cut that off or not, I don't know. But I think the things that we can look at—what else can be—we can do, either as the Congress or we can—you can do or the IRS can do to make sure that we're not just being able to collect 9 percent of that debt that's owed? Or even that there is so much debt that has been defaulted on in the first place?

Mr. KUTZ. Well, I would say, first of all, hearings such as this one where you're able to talk with the IRS about some of the systems problems they have and the control problems they have certainly helps, and it helps them focus on some of the things that they need to do.

One other possibility is with respect to the offset program, while IRS is fixing its systems, setting up some sort of an independent audit process before the information sent over to FMS is used for offset purposes to determine that the actual data is correct. Because absent that, again, we do have some concerns about some of the offset going on here.

And, with respect to the sharing of information with the States, there's possibilities there with respect to changing the law. Again, I think this oversight hearing is a good start.

Mrs. BIGGERT. Thank you.

Mr. HORN. If the gentleman from Texas has any more questions, please feel free to ask them.

Mr. TURNER. Just one. The IRS, as you've explained, is going to implement the continuous levy against civilian benefits, and I believe Ms. Ashby said that that would be an authority to levy 15 percent.

Ms. ASHBY. Up to 15 percent each payment.

Mr. TURNER. Up to 15 percent. And I can see the wisdom in having some limitation on the amount that could be assessed, collected, delinquent tax against someone who is receiving some government benefit. How does that work with respect to vendors? That seems to be the largest category of delinquent tax amounts, $7 billion. These are people that do business with the Federal Government. How is that program going to affect them?

Ms. ASHBY. It will work the same way with respect to other Federal beneficiaries. It's up to 15 percent of each payment can be levied, and I believe that's the intention.

Mr. TURNER. So if somebody has a contract to provide paper to the Federal Government, there would be the authority to withhold 15 percent of the payment to that vendor in payment of the supply of paper——

Ms. ASHBY. That's correct.

Mr. TURNER [continuing]. To pay against their taxes?

Ms. ASHBY. Correct.

Mr. KUTZ. Certain programs are exempt from this, also.

Mr. TURNER. For example?

Ms. ASHBY. Needs-based payments, such as——

Mr. SEBASTIAN. Unemployment, unemployment.

Ms. ASHBY. Right, unemployment insurance payments.

Mr. TURNER. It just seems to be that the rule ought to be a little tougher on a vendor who is supplying some product or service to

the Federal Government than perhaps any other category that we've talked about.

Mr. KUTZ. Potentially, you could consider not letting venders get Federal contracts, too. That's another issue, should companies with delinquent taxes have a Federal contract in the first place.

Mr. TURNER. Is the IRS, in implementing this 15 percent, are they bound by that by law?

Ms. ASHBY. The 15 percent is statutory.

Mr. TURNER. Statutory, all right.

Thank you, Mr. Chairman.

Mr. HORN. You're quite welcome. I agree with you. Maybe if we put out the word, we will amend the procurement laws. And you've got to pay your taxes. Suddenly billions might flow in.

So we thank you for your testimony. Don't leave. We hope you can stay through the rest of the hearing. And Commissioner Rossotti and his team will be up. There might be some questions we want to ask you. So get a seat in the front row, if you would.

And now we are honored to have the Commissioner. Accompanying the Commissioner is Mr. Paul Cosgrave, the Chief Information Officer for the Internal Revenue Service; Mr. David Mader, Chief, Management and Finance, Internal Revenue; and Mr. Charles Peterson, the Assistant Commissioner.

If you're all going to testify and anybody behind you that's going to testify or have a loud whisper——

Mr. ROSSOTTI. I think we will be OK.

Mr. HORN [continuing]. Stand up and raise their hands. I only want one baptism at a time.

[Witnesses sworn.]

Mr. HORN. The clerk will note all four witnesses affirmed.

We're delighted to have you, Commissioner. Please render your statement however you would like to do it.

STATEMENT OF CHARLES ROSSOTTI, COMMISSIONER, INTERNAL REVENUE SERVICE, ACCOMPANIED BY PAUL COSGRAVE, CHIEF INFORMATION OFFICER, INTERNAL REVENUE SERVICE; DAVID MADER, CHIEF, MANAGEMENT AND FINANCE, INTERNAL REVENUE SERVICE; AND CHARLES PETERSON, ASSISTANT COMMISSIONER

Mr. ROSSOTTI. Thank you. Thank you, Mr. Chairman, Mr. Turner. I'm glad to be here. I think that the GAO has provided a very thoughtful examination of IRS deficiencies with respect to the collection of payroll taxes and the Trust Fund Recovery Program.

We agree with the finding that most of these payroll taxes on the IRS books at the present time are not fully collectable, but, more importantly, I think GAO has identified, as they have in the past, some long-standing management systems' deficiencies that have prevented us from collecting or solving many of these problems. And I think these same shortcomings tend to be the root cause of many of the problems described in this report as well as other reports.

And, Mr. Chairman, as we had discussed on a number of occasions, our decades-old technology is really a key factor, a stumbling block, if you will, in our ability to provide adequate service and effi-

cient tax administration, including, in particular, early collection and intervention on payroll tax issues.

We need to recall that the basic data systems that the IRS uses to keep records on all tax papers, tax accounts, including payroll taxes, are built on about a 30-year-old set of systems, which is a fundamentally deficient foundation for tax administration. And GAO has repeatedly reported and continues to report, as they did this morning, the IRS cannot provide reliable taxpayer account and financial information for many purposes, including the ones that are discussed here today.

In the opinion on the audited custodial financial statements, GAO cited as a material weakness the lack of a system to be able to routinely generate reliable and timely financial information for internal and external users; and, in particular, GAO noted the lack of subsidiary ledgers that track unpaid assessments on an ongoing basis.

So, Mr. Chairman, we simply cannot do our job properly in many dimensions without this data. And particularly updating our business practices to both serve taxpayers better and also to be more efficient in collecting taxes really depends on our ability to update these computer applications and to convert all of the existing taxpayer data.

This, as we've noted, is a very vast and complex and, frankly, risky undertaking that's going to take a number of years to accomplish. However, we think an important initial step was taken last month when we received from the Appropriations Committees and with the advice of GAO the authorization for release—the first release of funds from the Information Technology Investment Account.

Now, this is a first installment toward the development of a new set of computer systems and a significant step forward in our overall modernization plan. Now that's technology.

I've also testified before your committee and other committees that the whole approach that the IRS takes to collection is not at the level of best business practices employed widely today in the private sector and especially the financial sector. And this process, which I've now had put in chart form, Mr. Chairman, and it's shown over there to your left where it says collections, current State process and issues, is—as you can see, I don't expect you to see all the detailed boxes there, but we can provide for your illumination copies of this to look at in detail—but it basically shows the process that exists today.

And this process is deeply embedded in a whole variety of laws, regulations, operational procedures, as well as in particular technology; and the difficult thing here is that these factors together are very tightly coupled. I wish it weren't that way, but it is the case. And that being the case, there is no way really to make major improvements without addressing all of these factors together, and what that tells you is that there's no quick or easy solution.

But I think we do know what the solution is. In fact, I think it's really quite clear, and that's what we call our modernization program, which includes a totally revamped approach to collections. And the whole idea here is that, to the extent possible, we will prevent taxpayer problems from occurring in the first place through

education, outreach and intervention with specific taxpayer groups, such as small business owners and new business startups; and where problems occur or may occur, we will begin to be able to address these compliance problems such as repeated lack of payment of payroll taxes in the most effective way; and when we do identify a potential problem, the risk of nonpayment, we can use a variety of techniques to settle that debt.

So that's the direction. But in order to achieve that, we must have new technology which provides an updated and accurate history of all taxpayers, individuals or businesses who are responsible for debt.

I think, as your committee has looked at this issue, you're well aware that any effective collection process, no matter who executes it, no matter what the sector is, depends on knowing accurately and on a current basis who owes the money, how much is owed, and what is the payment history. Those are fundamental; and, unfortunately, we are deficient in all of those.

So in addition to that, of course, there are other important pieces of technology which could be useful, such as updated decision models, telephone, predictive dialing equipment and various kinds of collection support systems, and we don't have any of those either at the present time.

Moreover, I think your hearing has highlighted an important point, which is that for the particular type of taxes and the taxpayer population that has been addressed in today's hearing, collection is not a one-time event, it's not a set of debts that you hand over and you collect it. It's an ongoing process. And this requires a carefully constructed and ongoing monitoring process which allows you to intervene at the right time and to take the appropriate action based on what you know. And, again, this is what we don't have.

So I just want to note, Mr. Chairman, that in another report, a GAO report that was released not too long ago on the first anniversary of the Restructuring and Reform Act, GAO stated, and I quote, we agree with the Commissioner that various components of IRS modernization must be implemented in an integrated fashion. Simply restructuring the organization, for example, without concurrent revisions to the work processes and related information systems will do little to improve the quality of service being provided to taxpayers.

I think we're in agreement with GAO on the nature of the problem, and it is particularly relevant to the challenges that are outlined today.

So, in conclusion, I would commend GAO for its thoughtful and considerate examination. We fully comprehend the significance of approximately $49 billion in payroll taxes owed the Federal Government, and we will use the GAO report to make what near-term efforts we can to correct the deficiencies, especially within the trust fund recovery system. We believe, however, that in the long run the best and in fact the only solution to these fundamental problems is through the massive change program that we already have under way. It will take years and it will take some significant and assured resources to complete the underlying—to solve the underlying problems in both technology and organization that cause these

unpaid tax assessments to occur. However, with the continued support of the Congress and the understanding of the time and resources involved, I believe we can succeed.

Thank you, Mr. Chairman.

Mr. HORN. Well, thank you.

[The prepared statement of Mr. Rossotti follows:]

PREPARED TESTIMONY OF
COMMISSIONER OF INTERNAL REVENUE
CHARLES O. ROSSOTTI
BEFORE THE HOUSE GOVERNMENT REFORM
SUBCOMMITTEE ON
GOVERNMENT MANAGEMENT, INFORMATION AND TECHNOLOGY
HEARING ON
UNPAID PAYROLL TAXES AND TRUST FUND RECOVERY PENALTIES
AUGUST 2, 1999

Summary

Mr. Chairman, the General Accounting Office (GAO) has provided a thoughtful examination and discussion of IRS system deficiencies with respect to the Trust Fund Recovery Program (TFRP). We fully concur with the finding that most unpaid payroll taxes are not fully collectible, and quite often have no potential of recovery.

More importantly, GAO has identified long-standing management systems' deficiencies and internal control weaknesses that have prevented the IRS from solving collection problems before they reach this unacceptable point.

As I have previously testified, IRS' traditional approach to collections is contrary to the best business practices employed today in the financial sector, and is severely impeded by our antiquated technology and present organizational structure. Our course of action is clear.

We must completely redesign our organization and collections process, and the computers that support them, so that we address payment problems before interest and penalties begin to accrue.

We must prevent taxpayer problems from occurring, in the first place, through education and outreach to specific taxpayer groups, such as small business owners, and by also addressing recurring and systemic compliance problems. We must identify as quickly as possible the potential risk of nonpayment and obtain an agreement to settle the debt.

We are beginning this process of change through the tools provided by the IRS Restructuring and Reform Act of 1998 (RRA '98). We will develop an integrated approach to manage and resolve the problems outlined in the GAO report and we will implement both short- and long-term actions to solve them.

While short-term solutions are important, it will take years and significant and assured resources to address completely the underlying problems in both technology and organization that caused the billions in unpaid tax assessments to occur. That is one of the great challenges of our modernization plan.

In another report that was released on the first anniversary of RRA '98, "IRS Management: Formidable Challenges Confront IRS as It Attempts to Modernize," the GAO stated: "We agree with the [IRS] Commissioner that the various components of IRS' modernization must be implemented in an integrated fashion. Simply restructuring the organization, for example, without concurrent revisions to work processes and related information systems, will do little to improve the quality of service being provided to taxpayers."

I agree with the GAO's assessment and it is particularly relevant to the challenges presented in today's hearings. We will do everything we can in the short-term to address the problem of unpaid tax assessments, but the greatest payoff will come when improved business practices, supported by new technology and organization, can be implemented through effective and integrated compliance strategies.

Short-Term Solutions

As I mentioned in the "Summary" portion of my testimony, IRS' underlying databases need to be completely replaced to resolve this problem fully. Until IRS replaces its fundamental computer systems, we are phasing in enhancements to our current processes.

In the first phase, we are piloting a system designed to reduce, or eliminate, the delays in posting the trust fund recovery penalty assessments. In September 1999, we will pilot a system that automates aspects of the Trust Fund Recovery Program (TFRP) manual process. The successful attributes of this system are planned for implementation in FY 2000.

The second phase will provide IRS Service Centers with the necessary information to establish promptly and accurately the linkages needed to identify and post payments to all associated accounts. In the interim, we have instructed our Service Center directors to certify that all backlog annotations of TFRP cross reference transcripts that have been, or will be eliminated by the end of fiscal year 1999.

IRS is also prototyping a new process as part of our redesign of the collection process. The "Mentor and Monitor New Employers" prototype will inform new employers of education and assistance opportunities at the same time they receive their Employer Identification Numbers. It will contact employers in need of additional assistance by telephone to help them understand and comply with tax laws, monitor their tax compliance with reminder telephone calls, and provide assistance to resolve delinquencies.

In our continuing efforts to identify ways to provide earlier intervention, we have undertaken a research project to develop methodologies to complete risk management profiles of taxpayers. This will provide us with the capability to assess potential risks for delinquency, coupling demographic data with traditional data.

Also as part of our redesign of the collection process, we have expanded the Streamlined Installment Agreement (SLIA) process. Since March 1999, individual accounts and those for

business no longer operating with assessed balances of $25,000 or less now qualify for SLIA, if the payment amount will full pay the account within 5 years. We are further expanding this option so that in January 2000 these taxpayers will be able to accomplish this by dialing into the Telephone Interactive System.

Plans are also underway to pilot a streamlined Offer-in-Compromise process for all individual income tax liabilities with an aggregate balance of less than $50,000. These offers will be worked in a centralized location(s). The pilot is scheduled to begin this summer.

In addition, IRS will launch an interactive installment agreement application on the IRS website next month. This application will provide certain taxpayers the ability to determine allowable expenses criteria, payment amounts, and terms using interactive information. The taxpayer will then be able to "hot-link" to and prepare the Form 9465 Installment Agreement Request Form. Preliminary plans are underway to expand this interactive capability to include Offers-in-Compromise during summer 2000.

A Payment Options Document will be also included in the 1999 tax packages, Publication 17, Package X, the IRS web site, and IRMs beginning in January 2000. This document will provide an array of payment options with information on how to request each option. This document will be tested with taxpayers and practitioners prior to issuance of the final version.

A Shift in Focus is Needed: From Problems to Prevention

The GAO's recommendations underscore the need for our major efforts to improve IRS business practices. We must shift from addressing taxpayer problems well after returns are filed to addressing them as early in the process as possible, and, in fact, prevent problems wherever possible. Malcolm Sparrow, of Harvard's Kennedy School of Government and one of the world's leading analysts of government compliance programs, said it simply: "Speed of reaction after the fact is considered second best: prevention is considered better, but is harder to quantify."

This approach follows the well-established quality principle that it is far better for the customer and far less expensive to eliminate defects than to fix them. As a rule, if a taxpayer files a correct return, no further costs are incurred by the taxpayer or the IRS. If the taxpayer makes an error, it is highly beneficial for both the IRS and the taxpayer to find and fix the error as soon as possible. If the taxpayer fails to pay the correct amount due, the sooner the issue is addressed, the lighter the burden on the taxpayer and the greater the likelihood that the IRS will receive payment. Essentially, we can prevent many of these collection problems from occurring in the first place, let alone becoming overdue.

Interacting with taxpayers is a three-part process: (1) Pre-filing – services provided to a taxpayer before the return is filed to assist in filing a correct return; (2) Filing – services provided to a taxpayer in the process of filing returns and paying taxes; and (3) Post-filing – services provided to a taxpayer after a return is filed, to identify and correct possible errors or underpayments.

The balance of IRS resources is heavily weighted to intervention after problems occur while relatively little is devoted to preventing problems, with 73 percent of the budget allocated to post-filing activities. In fact, nine times as much is spent addressing problems after the fact than is spent in preventing them.

Experience at the IRS and elsewhere shows that there are many opportunities to improve service and compliance and increase productivity. We can accomplish these goals by pursuing more aggressive use of techniques to prevent errors and address recurring and systemic compliance problems.

In addition, when taxpayer problems occur, it is important to intervene as quickly as possible, particularly in the case of underpayment or nonpayment, as the GAO has reported. The key to effective collection anywhere is to identify as quickly as possible the potential risks of nonpayment and obtain an agreement to settle the debt.

However, today's IRS practices produce very late intervention in most cases. Over 90 percent of the working cases of IRS telephone and field collection personnel are more than six months old, and most are several years old. Examination of individual and small business returns often occurs six months to one year after filing, and completion of the examination requires an additional five to 12 months. Resolution of assessments which go into accounts receivable often does not occur for an additional two to four years.

In effect, the majority of IRS resources today are being applied to address taxpayer errors or issues that arose three to seven years ago. One of the implications is that over 60 percent of the amounts shown as owed by taxpayers in the GAO report on IRS financial statements is for interest and penalties, and the balance reflects the original tax due.

While great gains in both service and compliance can be anticipated from changing these practices, implementing them fully is dependent upon changes in organization and technology that will require significant investments of time and money.

Tailor Practices and Strategies

Just as companies develop particular products and marketing programs to reach customers with differing needs, most IRS business practices offer the opportunity for dramatic improvement by tailoring them to address particular taxpayer needs and problems. These needs and problems vary enormously. To serve these taxpayers effectively, it is essential to understand their particular needs and circumstances and to meet them with appropriate services and programs.

Tailoring IRS services to particular groups of taxpayers, such as we are doing in our reorganization as part of the RRA '98, is a cornerstone of how we can dramatically improve our service to taxpayers, improve collections, and increase productivity within the organization.

Pre-filing assistance programs, such as customer education and telephone and Internet assistance, and publications and forms design, all represent obvious opportunities for more clear and effective communications. Filing-related programs, such as electronic filing, telephone account assistance and notices also need to be tailored to suit the needs of individual, small business and large business taxpayers.

In addition, post-filing compliance programs offer major opportunities to allocate resources more effectively based on knowledge of specific issues affecting taxpayers in particular industries or business situations. In turn, the post-filing knowledge gained from working with taxpayers in examination and collection can be used to develop improved guidance and education programs to prevent future problems, thus, reinforcing the problem prevention strategy.

Understanding taxpayer problems and needs and tailoring and improving programs to meet these needs is so fundamental to meeting IRS strategic goals that it must be a key organizing principle for the way the IRS is managed.

Risk Based Compliance Techniques

Regardless of how successful the IRS is in preventing taxpayer errors, it will always be necessary to intervene through examinations, collection actions, and investigations when noncompliance or nonpayment is found or suspected to be occurring.

Because the IRS has limited resources, it is essential to apply resources where they will be of most value in reducing noncompliance, both in specific cases and in patterns of noncompliance. Strategies that target resources effectively benefit individual taxpayers by reducing the need to burden those taxpayers who comply.

For example, the IRS was a pioneer in using statistical techniques in selecting tax returns for audits that were likely to contain an understatement of tax. With the advent of many new best private sector practices, the IRS has an important opportunity to use the information it has to target compliance resources more efficiently.

This is especially the case with respect to collections, where great progress in developing more effective collection techniques and practices has been made in both private and public agencies. The proven keys to effective collections are: (1) to identify, as promptly as possible, using all available information, customers who may present a risk of nonpayment; and (2) to intervene in the most effective way, whether through mail, phone calls, or in-person visits, to work out a payment program that addresses that particular customer's payment problem. This helps the customers, as well as the collecting agencies, and limits the need for enforcement actions.

Although risk-based compliance techniques offer great opportunities for progress on all

three of IRS' strategic goals of service to each taxpayer, service to all taxpayers, and productivity through a quality work environment, they are dependent upon clear, centralized management of compliance resources for relatively homogeneous sets of taxpayers.

In addition, accurate, up-to-date data about taxpayers' returns and accounts, and modern technology such as constantly updated decision models, telephone dialing equipment that assists the operator in making calls, and collection support systems are essential. Long-established business practices must be modified and updated.

Integrate Compliance Strategies

The greatest payoff in progress on all three of IRS' strategic goals will come when all of the improved business practices can be implemented through effective and integrated compliance strategies. An integrated strategy is one in which the needs and problems of a set of taxpayers are clearly understood and all the techniques and resources from all the disciplines of the IRS are applied appropriately to solve those problems over a period of time.

An example of such an approach was one successfully used in central California, which addressed a business segment that historically was highly non-compliant and where the taxpayers were often in an adversarial relationship with the IRS.

This business segment is made up of agricultural farm labor contractors who supply temporary farm workers to farm operators. Before the new program began, relatively few contractors were compliant with employment tax and withholding obligations, as well as various State tax obligations. Working with an association of farm contractors and the State agencies, the IRS team was able to develop agreements and educational programs that persuaded most members to comply early, while working out acceptable arrangements for meeting past obligations. In particular, the IRS team forged an agreement with the State of California that made the issuance of State business licenses for farm contractors contingent on compliance with all federal and State tax laws.

Only a very few taxpayers who blatantly refused to comply were investigated and prosecuted. The leader of this particular association was very vocal in his praise of this program because it eliminated in a practical way a major ongoing problem for most of his members, many of whom wished to be compliant but had difficulty doing so when the majority of their competitors were not complying.

In 1993, businesses in the team's jurisdiction owed the government $11.1 million. As of 1997, that figure was down to $240,000. The development and implementation of such integrated strategies on a large scale depends on having a clear understanding of taxpayer problems, an organization structure that permits comprehensive addressing of these problems, and appropriate performance measures to encourage and quantify progress.

Mr. Chairman, as we have discussed on many occasions, the current IRS computer systems are a reflection and codification of IRS' established business practices and organization structure, as well as specific tax code provisions. For example, there are three different systems to support collection activities because there are three different kinds of organizational units that perform collection activities, each using particular business practices.

The large and extremely fragmented nature of IRS technology inventory also creates many problems, including high cost and poor service to end users, high costs and long time lines to implement changes and improvements, and difficult control and security issues.

While large in size, many of IRS' information technology problems are similar to those of other large organizations that have installed technology piecemeal over a long period of time without a strong focus on professional management of information technology resources from the top. However, IRS also has a very special problem that is a serious, on-going risk and a fundamental barrier to achieving its strategic goals: the core data systems that keep records on taxpayers' tax accounts are fundamentally deficient.

Updating our business practices to better serve taxpayers and be more efficient in collecting taxes requires almost a complete replacement of IRS' information technology systems. They are built on a 30-year old fundamentally deficient foundation and GAO has repeatedly reported that IRS cannot provide reliable taxpayer account and financial information to manage the Agency. This is a vast, complex, and risky undertaking that will require many years to accomplish.

Implementing new technology based on revamped business practices is critical to properly supporting our modernization concept and fully complying with the mandates of RRA '98. If properly funded, we expect our technology modernization initiative to realize the following benefits. In the short term, there will be improved access to IRS customer service representatives; improved service to internal and other Federal customers; the start-up of electronic communication with taxpayers; and timely, accurate information for personnel systems.

Mid-term benefits include: improved financial management; expanded electronic filing and payment options; and expanded electronic interaction with taxpayers. The long-term benefits are: more accurate and timely information for increased customer service; more customer friendly collection capabilities; faster refund processing; secure and auditable access to all taxpayer account information through a single terminal; and far greater productivity for all IRS employees.

Last month, we received from the Appropriations Committees' authorization for the release of funds from the Information Technology Investment Account. This is a first installment toward developing a new set of computer systems and a significant financial investment in our

overall modernization plan.

This $35 million in funding was released from the overall Investment Account in which $506 million was set aside in 1998 and 1999 for use in modernization. To receive the funding, IRS met stringent requirements, including demonstrating improvements in our management of the program and a strong partnership between the business and IT organizations.

The IRS received approval from the Treasury Department, the Office of Management and Budget, and a favorable review from the General Accounting Office. GAO praised the IRS' plan, calling it an appropriate first step toward a successful systems modernization. House Appropriations Subcommittee on Treasury, Postal Service and General Government Chairman Kolbe wrote: "The incremental approach that you have proposed for proceeding with the modernization should help avoid many of the problems associated with past attempts at modernizing the Internal Revenue Service's information systems."

With this money, we can continue to roll out improvements for the 2001 filing season. The funding will also allow us to complete a business systems plan which will define the major projects to be undertaken over the next two to five years, including transitioning taxpayer accounts from a tape-based Master File to a more modern database. We will make a full report of the five-year plan available in October.

In addition, Mr. Chairman, because of the close inter-relationships, programs to modernize IRS technology both depend on, and enable, modernization of the organization and business practices. With respect to organization, there are two important dimensions: how the IRS is organized to manage information technology itself, and how the operational units that manage IRS programs work with information technology, to improve business practices and achieve our strategic goals.

Improvements in both dimensions are essential in order for modernization of IRS technology to succeed. Improvements in information technology organization are essential to achieve professional, high-quality results in resource use and in managing technology programs, including modernization of core business systems and management of the legacy systems. Improvements in IRS business organization are essential to create business owners who have the knowledge, authority, and commitment to develop improved and consistent business practices.

The establishment of IRS operating divisions will enable the appropriate business owner to revamp business practices and work with the information technology organization to modernize supporting technology.

Conclusion

Mr. Chairman, in conclusion, we commend GAO for its thoughtful and considered examination and report. We fully comprehend the significance of the approximately $49 billion in payroll taxes owed the federal government and will use the GAO report to assist in our efforts

We believe, however, that in the long-term, the best solution to these fundamental problems, and the best way to meet the expectations of the Restructuring Act and America's taxpayers, is through the massive change program now underway at the IRS which I have outlined today. With the continued support of the Congress and an understanding of the time and resources it will take us to reach our final destination, I believe we can succeed.

Mr. HORN. Let me ask you a few questions that specifically relate to your statement.

I'm delighted you feel good about the computers that have been authorized and the money appropriated in Mr. Kolbe's budget, I assume. Was that all you wanted or were you in on that budget cycle? Maybe you got little after they had started firming up downtown.

Mr. ROSSOTTI. Well, you've got two different things here. There has been $500 million that was previously appropriated for the Information Technology Investment Account, which was held aside specifically for technology until we could get adequate plans together. And the point I made in my testimony is that we recently got the first $35 million allotment out of that fund. I think that really was an important step. It's really, literally, just the first step, but it indicated that, you know, we've made progress in defining our plans and getting a management process in place.

The ongoing budget issue is still being debated, as you know, in the Appropriations Committees and, you know, there's certainly—from my point of view, it's very, very important that we get at least what's in the President's request in order to be able to continue progress. So these are two separate issues.

Mr. HORN. Do you know offhand what the President's request was for you on this?

Mr. ROSSOTTI. Well, the President's request in the total appropriation for all of the IRS was $8.1 billion for fiscal 2000. It did not specifically include any additional money for the Information Technology Investment Account, because there was already this $500 million that had been advance funded and, given our timing, it was not required to have an additional increment funded in specifically 2000. It will be very important to get that increment beginning to resume funding in the following fiscal year.

Mr. HORN. Well, you should be involved, I guess, around now for the President's budget that he proposes to Congress in January 2000. So——

Mr. ROSSOTTI. Well, yes, that's the fiscal 2001. We're already working hard on that.

Mr. HORN. Right. What do you think you will need that you didn't get this year?

Mr. ROSSOTTI. Well, I'm not prepared to talk about specific numbers for 2001. But I think the important point was that the Information Technology Investment Account, that particular segment was advance funded in prior fiscal years. There was no funding in fiscal 2000, which was appropriate, because we were not—timing wise we weren't in a situation where we needed it. But we will need it again in 2001. So that will have to be resumed.

Mr. HORN. Right. Well, I'm assuming you will put in a full request on that?

Mr. ROSSOTTI. Yes.

Mr. HORN. You know and we know OMB plays all sorts of games. If they know we're going to add the money back, they cut the budget. Good example, they slashed away at the space program, they slashed away at the Veterans, they all know we're going to add the money back, and they can look like a group of economizers. So, hopefully they will take yours seriously.

How do you know in IRS when a person has begun a business? What do you use as your sources? There are thousands of businesses everyday.

Mr. ROSSOTTI. The main thing that we get is they apply for a number. They apply for an employee identification number.

Mr. HORN. How do they know—see, the average citizen or one that's a new immigrant has an idea, might work out of the house, et cetera.

Mr. ROSSOTTI. Well, of course, you know, if they want to establish an entity, they have to apply for an employment identification number. If they just want to work out of their house as an individual and be a self-employed business——

Mr. HORN. With a business in this day and age, you have computers, as you know.

Mr. ROSSOTTI. Yeah. You don't have to do anything if you're an individual and you're just working yourself as a self-employed individual. But if you want to have employees and pay payroll taxes, you have to have an EIN, but, of course, herein lies the issue, there are people—I can give you examples of people from my own previous business, when I was in the software business, where a programmer would leave the company because they had, you know, a lot of talent in programming software, said I can go out and be an independent consultant and make more money and be more successful. So they would do that, and the first thing you know they would get together with some other people and have some employees. The furthest thing from their minds was payroll taxes. I mean, most of those folks, frankly, had never seen a, you know, tax form other than maybe their own personal income tax return. They can be easily somebody that can get behind a quarter or two before we would find out about it, and they would get in serious trouble.

One of the key strategies that I think we need to follow for this segment of the population is to work in cooperation with, for example, State agencies and other places to educate these folks. We have education programs now, but, you know, more specific intervention at a very early stage through whatever source, either when they apply for a number or when we find out some other means that they're starting a business, just let them know—look, this is what you need to do to make sure you're complying properly with the law. We have some programs like that now, but it's a very, very small percentage of our operation.

We have some initial steps that we're taking over the next fiscal year, again, modest, to try to what we call mentor new employees. It's really very simple—new employers—it's really very simple. It is just telling them, here are the forms you need to file, and here's what you need to do to make sure you're staying compliant. But that is probably the cheapest thing we could ever do to get problems solved before they occur, and that will be a major part of our emphasis of our new program beginning with small steps next fiscal year.

Mr. HORN. Because a lot of that can be done with the local municipality. People do know, gee, I guess I better go down and get a permit for this and that. It seems to me there is one place to educate more people.

Mr. ROSSOTTI. Absolutely, I couldn't agree with you more.

Mr. HORN. Let me ask you, you heard my comments on the private collector versus your own revenue officers. Are you going to get into an experiment on what can be done in the private sector?

Mr. ROSSOTTI. Well, you know, I think that—here the issue becomes, what's the first step and what's the priority step? I think there's obviously potential to do those experiments over time. But I think if you look at that chart over there and you mention, well, you know, the last experiment they give old debt, that wasn't realistic. But the difficulty was, if you look over there on the right, that's the place that our collectors—I know you can't see too much of it, but we will give it to you—but the far right third of that chart is basically the time when our actual collectors or field collectors get the money, get the debt that's turned over to them.

By the time it's there, it's typically a couple of years old. So when they did the experiment, you know, actually I don't honestly think there was an attempt to rig it. It was just all they did was they took what the collectors get, and they gave the same thing to the private collectors. The private collectors said, what's this? This is junk. We can't collect this. I said, yeah, that is exactly what many of our collectors are actually collecting on.

So to really do a proper experiment and do things realistically, you really have to get a much earlier intervention into this cycle.

If you look at the middle chart there, this is a chart that one—where analysts that are working on our new computer systems put together, and what it shows is from some private sector sources the probability in the private sector of collecting debt, those are the green bars as time goes by. And it goes down to about, you know, if you can see that, 12½ percent, 24 months——

Mr. HORN. I can see that.

Mr. ROSSOTTI [continuing]. Well, if you look down at the bottom, that's about the time that we actually turn the debt over to our revenue officers. So, I mean, the game is almost over by the time they get it.

Mr. HORN. Presumably you're going to change that?

Mr. ROSSOTTI. We're going to change it. But if you look at those boxes on the left what you can see is there's an awful lot of boxes, and they go through a series of steps. That is not something that I or anyone else can decree has changed very, very quickly when you recognize that some of those boxes are, for example, written into law. I mean, for example, the due process, the Revenue Restructuring and Reform Act just added a whole lot of new boxes with some of the procedures—some of them are derived just by procedures, and all of them are embedded deeply into the computer systems that we have.

So this is why, you know, I've said and GAO I think agreed, there is no—it would be good if you could pick out one piece of this and just say let's fix that. People have tried that before, and it's failed every time. Honestly, I think it would fail again. You really have to reengineer this process, which includes all phases of it, to make it really effective.

Mr. HORN. The key is to do it earlier, the first 6 months?

Mr. ROSSOTTI. Absolutely.

Mr. HORN. Because otherwise——

Mr. ROSSOTTI. You can see the green bars show you——

Mr. HORN. Yeah, they think it's a grant. It's like students. If they got a loan and nobody says, hey, I want my interest, they're going to say, gee, I guess somebody just turned it into a grant; I didn't hear from them.

Mr. ROSSOTTI. Well, the other thing is that, as your hearing pointed out in—and the GAO report pointed out in this particular sector, the payroll taxes, people are paying all the time. So I mean it isn't a matter of just a one-time debt, it's an ongoing monitoring process. And with the right kind of computer systems, the private sector does this all the time in the credit business, that's an ongoing process as well.

It's really quite feasible to monitor with statistical miles to try to figure out where the risk is. If somebody is late one or two times, they may not be a risk. They may be away on a vacation, and they just didn't pay the bill. In the other case, if you had the right information, you could find out very quickly there's a risk. We don't have anything like that kind of information available at the IRS.

Mr. HORN. Well, is there a way to really get at that?

Mr. ROSSOTTI. Well, I think there is, and that's what we have—I think that the whole—what we call our modernization program basically comprises three elements. It comprises reorganizing so we have, you know, instead of 43 different people collecting, we have a central process to oversee this. That's management.

The second one is technology, which is what we're working on through the ITIA account.

And the third, that enables you to reengineer this to basically do what's on those green bars there.

I mean, the thing about this, it's really not hard to know what to do. We know what to do. Getting it done in the magnitude of what we're dealing with and in the—with the constraints we have is not so easy.

Mr. HORN. The gentleman from Texas, Mr. Turner.

Mr. TURNER. Mr. Rossotti, you heard my discussion earlier about the possibility of a bond requirement for the payment of payroll taxes. And I assume if you had one we would have to maybe apply it only to employers that have a certain number of employees or greater, certain size payroll or greater, so every mom and pop wouldn't be having to file or post a bond. But do you think there's any wisdom in considering a bond requirement?

Mr. ROSSOTTI. Well, there certainly would be wisdom from the point of view of reducing the risk of nonpayment of payroll taxes. I don't think there's any question.

The difficulty you get in, as the GAO representative noted, is that it does place an additional burden on the taxpayer. And, really, if you look at our whole mission at the IRS, it's bouncing multiple objectives. Because on the one hand we want to make sure we achieve compliance and we don't have people failing to pay what's due. At the same time, we want to make that process as easy as possible.

And I go to another hearing once a year or so with Senator Bond, Small Business Committee, and their perspective is how can we make it easier for small businesses to startup, which is a very appropriate thing do to. We try to accomplish both. I think a bond program would have the—have to be very carefully considered in

terms of what its potential burden on new businesses that we're starting up might be. That would be the principal downside.

Mr. TURNER. Payroll taxes appears, if I have my data correct, to be a fairly sizable portion of your uncollected taxes, about one quarter of your total taxes?

Mr. ROSSOTTI. Yes. To put this in perspective, though, I don't want to minimize the importance of this number, the $49 billion and the $38 billion that it represents, but payroll taxes and withholding taxes are the largest share of the cash that comes into the Federal Government. I mean, it's a very large amount.

I mean, our total in fiscal 1998—our total receipts from payroll taxes, and this is both employee and employer shares, was about $550 billion, and if you add in withholding payments for withheld income taxes, you're getting around $1 trillion. So I mean this is the largest single source of money coming into the Federal Government. It's an enormous sum, and it's actually attributed to the taxpayers of America. But most of this actually comes in quite smoothly, and it's more the exception that causes the difficulty.

On the other hand, the exceptions, because of the size of the system, are still very large. So I don't want to minimize them. But in terms of total scale of operations, there is around $1 trillion a year coming in from both withholding income taxes and payroll taxes.

The reason that it shows up as a significant workload for revenue officers is because of the ongoing nature of this. I mean, the basic kind of—you know, you really have two kinds of tax issues—tax collection issues. One is from assessments, which are made, for example, when we audit someone and find that they underreported their taxes, and now they owe *X* amount more, and then we have to go and collect that money from an individual.

That's more of a sporadic event. I mean, most people don't underreport every year. The payroll taxes and withholding is something—for an in-business taxpayer is an ongoing, weekly kind of an operation. So, clearly, the techniques of collecting and the intensity of the need to collect is different.

Mr. TURNER. When will you be able to implement the continuous levy that you were authorized to do in the Taxpayer Relief Act of 1997?

Mr. ROSSOTTI. Again, this is a program that involves primarily the financial management service and the IRS together, although our role is mainly to provide information to them. The current target I believe is to have it done, to be implemented in July or let's say the summer, or about a year from now in the year 2000.

On that chart over there on the right, it shows you actually the simplified version of the process that goes through. And, again, I know you can't read these, but you can get the impression. We will be glad to give you the detailed chart. But it shows you the various steps that have to be done.

I mean, it's definitely a good program, the 15 percent levy, because it will be able to assess, you know, benefits of people, Federal benefits from people. But it is not a simple thing to do because, as you can see in these charts, there are a number of steps. For example, because of the Restructuring and Reform Act, there's what's called a due process in the collections process.

So before anybody can be levied, there's an entire process that goes all the way through multiple steps internally within the IRS and potentially to the tax court before you can actually assess a levy. And before you can give somebody a due process in collection notice, you have to know that there's a valid levy source. So part of the process going back and forth there are, first, we have to find out that there's a tax debt. Then we have to find out if the financial management service actually has, for example, some sources of levy, such as a Social Security payment or a vendor payment. Then if there is, we have to send—go through the whole due process in collection law, which is a multi stepped process in and of itself. Once that's done, it has to go back to the financial management service.

So I think, you know, when the GAO representative said they believe this is a good program, but there's cautionary notes, I think this is some of the things that they were saying. This is not to undermine or any way—I don't want to give the impression that I'm saying this is not a good program. I believe that it makes a lot of sense to do this. It's just to try to provide a little bit of information about what's involved.

As best I know it today, and it does depend in part heavily on what the financial management service does, it should go into effect for everything—well, for most of the things that are authorized, except for wages of Federal employees. There are some complications there. But it should go into effect, for example, for vendor payments and Social Security payments next July or so.

Mr. TURNER. Finally, I would like to get your opinion on the issue of the statute of limitations that I raised with the GAO. Do you think the law should be as it is, giving the taxpayer the option to waive the statute of limitations?

Mr. ROSSOTTI. Well, let me just say that the situation has evolved little bit since the GAO—the GAO did the work they did in conjunction with their audit of the 1998 financial standpoints. But during approximately the latter part of fiscal 1998, we actually at the IRS, as part of some of our reviews that we were conducting, you know, basically discovered or realized that this program was not being implemented properly—and really the way it arose was that revenue officers or others that were collecting, what they were really doing was that they were going into installment agreements in a lot of cases for the authorized period of 10 years. And then what was happening is, let's say a few months before the statute expired, we had a computer system that was bumping these things out and they were going back to the taxpayer and requiring them at that time in most cases to actually extend the statute of limitations, the alternative being potentially other action—other enforcement action such as a seizure of assets or a levy of assets.

So they were basically, in most cases, requiring the taxpayer to extend these agreements. And we found cases where people were on agreements for as long as, frankly, 30 or 40 years, which is somewhat dubious from a lot of point of views.

Furthermore, what we also found is that practice, although it was well-intentioned, actually violated a prior statute on the Taxpayer Bill of Rights, which forbid us from basically requiring a taxpayer under threat of enforcement action to extend a statute.

So at that point, which was approximately a year ago this summer, we completely revised a lot of these procedures and basically don't allow installment agreements any longer which don't pay off the full loan during the statute or I think it's a 5-year extension, one-time 5-year extension. See we can request the taxpayer to make an extension if we do it up front at the time—as you indicated, at the time that we make the installment agreement.

So under our current process what it boils down to is, if you can pay off the entire loan with one extension of the statute, we can then enter into an installment agreement on that basis. The alternative is to have an expanded offer in the compromise program, which is the second leg of the stool, the second change that we've made. And as of January of this year, we did issue new guidance on the offer in the compromise program, which allowed us to have a much wider range of different kinds of offers, including deferred payment offers, which is essentially a combination of an installment agreement and an offer in compromise.

So we were—basically, if you can look at it this way, we are in the process of basically revamping and reconsidering all of these tools, so that we have a—I mean, we have to conform to the bill of rights, Taxpayer Bill of Rights' issues. We have to conform to the statute of limitations' issues, and we have to try to figure out what is the best tool to collect the most money from the taxpayer. And this is part of this major revamping process that we're in.

I think in terms of the statute of limitations, we actually have the authority now essentially to work with the taxpayer to request an extension of the statute in order to achieve a full payout through an installment agreement. And if they don't accept that at the beginning, we do have a number of tools to, you know, to essentially provide some enforcement authority that I think gives an incentive for the taxpayer to work with us to extend that statute.

Mr. TURNER. So you don't think it would be helpful at all if the statute of limitations ran from the date of the last payment a taxpayer made, rather than from the date of the initial tax obligation?

Mr. ROSSOTTI. Well, that's a technical question. I think what we would like to do is to get back to you on that. I think that particular question—I don't think we can adequately think it through here on-line.

Mr. TURNER. That's fine. And I would urge you to look at State laws regarding collection of private debts. I know in my own State, statute of limitation runs from the date of the last payment on a debt. Oftentimes, debtors refuse to make a payment because they know the limitation period is running, and if they make a payment they're going to extend the statute.

Mr. ROSSOTTI. There are those intricate byplays that you get into with these statutes. But I think we will be glad to take a look at this particular issue that you've raised and get back to you with some thoughts on that.

Mr. TURNER. Thank you.

Thank you, Mr. Chairman.

Mr. HORN. Mrs. Biggert, vice chairman.

Mrs. BIGGERT. Thank you, Mr. Chairman.

Mr. HORN. Eight minutes.

Mrs. BIGGERT. Thank you.

Mr. Rossotti, the GAO report noted that about 70 percent of the amount owed in delinquent taxes predates 1994. How long on the average does it take for the IRS to go knocking on somebody's door after they first default to require a payroll tax deposit? I can see the chart. It's 24 months. Where it's——

Mr. ROSSOTTI. Well, it depends—what happens is, as you can basically see in this chart here, but we will get it for you, is the first process is the notice process, normally is a notice process, where they get some notices depending on whether it's business taxes or individual taxes.

Mrs. BIGGERT. How long does it take for that notice to go out, on the average?

Mr. ROSSOTTI. The first notice will go out maybe—if I can get any colleague here to help me on the precise timing.

Mr. PETERSON. Sure. Basically, on a trust fund, which is a little bit accelerated over an individual 1040 liability, normally, it's about 3 months from the time the return is filed until the time someone knocks on the door. And in the intervening time you received a couple of notices and hopefully had a call from the automated telephone system, but it would bypass a lot of the normal processing. And normally it would be about 3 to 4 months from the time the return was filed until the time that someone would be out talking about the business.

Mr. ROSSOTTI. I should note that a return is filed, you know, after the end of the quarter. So you've got a whole quarter of deposits, and then you've got the leg time to until the return is filed. And then you've got potentially up to 4 months, you know, before someone—and that's probably the most accelerated process we have, and that's a whole lot faster than most of the processes.

Mrs. BIGGERT. That really would then be 7 months?

Mr. ROSSOTTI. From the time of the deposit, you know, depending on, you know, a deposit goes weekly or biweekly.

Mrs. BIGGERT. Do you have any statistics then about how many companies have already gone out of business before they receive the first notice, if it's 7 months?

Mr. PETERSON. No, we really don't have. We can probably look to see if we can do an extract on that. But I'm not sure if we would have that data available anywhere.

Mr. HORN. Get the microphone a little closer to you, Mr. Peterson.

Mr. PETERSON. Sure.

Mr. HORN. Thank you.

Mrs. BIGGERT. I'm just trying to figure out how many businesses are notified and they've already gone out of business, because it seems like the process takes such a long time.

Mr. ROSSOTTI. Well, we don't have the exact numbers, but, without having any numbers, we already know it takes too long. I mean, our whole process is to reengineer this. We do have this Alert system, as GAO has noted, that tries to get some intervention earlier, but it has its limitations.

Mrs. BIGGERT. With your revamping of the computers and your program, will there be something done with the first area? GAO also noted that it didn't seem like the First Alert was working. Do you have something to change that?

Mr. ROSSOTTI. Yes. I think that—again, this is where you get into this intricate complication of regulations, organization, technology, and so forth. I mean, part of the problem is that, you know, that what triggers the Alerts now is a very crude kind of a process. I mean, it requires I think four quarters of delinquent taxes, you know, which is pretty stringent criteria. So, you know, and then we have a limited number of revenue officers that can do this, so sometimes the Alerts don't always get followed up on.

The goal where we need to go on this is to have much better history and much better records and then use these—what the private sector uses in the credit card business are risk prediction models. They take all the things in the computer into account, including past payment histories, the delinquencies, you know, the patterns of payments and all of these things. I mean, you probably made a credit card charge at some time—most people have—where they intervene right on the spot where you were making the charge and called you back to verify that it was really you that was making the charge, because their models have detected that particular payment even.

So I mean that's how sophisticated it can be in the private sector. There's nothing about our process that says we couldn't take advantage of that kind of technology, if we had the technology. And the effect of it would be that we would know in a much more precise way where the real risks are and where we need to intervene and when and we can take the appropriate action.

The appropriate action might be do nothing. Because this is the taxpayer that, you know, based on history is really going to pay, and it's just probably a clerical error or something, don't waste your resources on it to look. This is a real risk, high risk; and you need to send a revenue officer out there right away and sit down with that taxpayer and figure out what to do or it could be an intermediate ground, just sending them a notice or just sending a phone call.

So that's—I mean, it's really not hard to figure out what we should be doing; and it's very, very well modeled in the private sector. But, again, I don't want to sound like a broken record, it really depends on having the right technology, the right information and also the right management structure so when you get the information you can send it to the right people and have them act on it.

Now, right today it's—the Alert system is a very crude—very, very crude attempt to approximate that kind of approach. And, you know, as GAO indicated, being crude, it doesn't work that well.

Mrs. BIGGERT. And they also mentioned that there were certain types of businesses like the construction business or the restaurant business that are more prone to fall into that, the category of defaulting. So this would be an area then that would be targeted for the type of business that you might send to the IRS?

Mr. ROSSOTTI. Hopefully more precisely than that. That could be a factor that would be taken into account. Basically what you want to know is, where is your risk, and you want to know that very quickly so you can do something about it.

Mrs. BIGGERT. Then are there any initiatives that the IRS has taken to target high-risk industries, or are you intent to be more precise than that?

Mr. ROSSOTTI. I think, honestly, at this point, you know, that we really don't have fine-grained enough information to do that without potentially—you know, you have to be very careful in the IRS when you start, quote, targeting anybody, because they—people on the whole don't like to be targeted, unless you can prove there's a very, very good reason to it and just identifying a whole industry is not so wise.

But I think what we need to do is to—I mean is to—I keep sounding like a broken record—but to have more accurate and updated information. We can apply real models that would then be rigorous that would allow us to intervene quickly. In the meantime, I think we're stuck with some basically modest refinements.

The one key thing, and you might want to mention the mentoring program, we have one initiative that we approved right now that I think gets partly to Mr. Horn's point about the new employers. And I would ask Mr. Peterson to describe this, because this is one thing that we can do now.

Mr. PETERSON. We actually started a test that's going on this week, and it's a program which he is talking about that's called Mentor and Monitor. And what we're doing is with every—in a certain area—we are actually testing this out in the north Texas district, but with every business that applies for a identification number in that area we're making contact with every one of those and explaining to them what their requirements are, explaining to them what they need to do to make sure they're filing all their Federal taxes, including payroll taxes.

We then go ahead and monitor their track record and make sure how they're doing; and if there's kind of a missed payment or anything else, we give them a call right on the spot. And if they have, quote, significant problems, we will send a revenue officer out. And we're doing that against a test group to try and get an analysis of what that kind of attention does in terms of the general business versus the ones that get the extra attention and see if that isn't a very valid way of starting to do a little bit of what we're talking about in terms of more outreach and more monitoring to make sure that people are aware of their tax responsibilities, as well as complying with them.

Mrs. BIGGERT. Is there anything with the States when a company files for articles of incorporation that there would be information—is there information given with that incorporation or would the States perhaps include that in their——

Mr. PETERSON. Not in the Mentor and Monitor program. I mean, there are things that we have done, but the difficulty with that is those kinds of agreements are done State by State under the Fed-State agreements. A lot of States that have no tax have no, really, interest in entering into a Fed-State agreement with us at this time because there's no quid pro quo of exchanging information. So it really is a State-by-State basis right now. We've got a program—obviously a formal program that attempts to do that, but it really—our success with those kinds of agreements really do run by the individual State and their wish to get involved with that.

We are trying to do something in the collection area this fall in terms of—for the first time, we're doing a nationwide Fed-State symposium on some of the things we can do to try and share those

kinds of ideas and do things together, but that's a first-time effort as well.

Mrs. BIGGERT. Thank you.

Thank you, Mr. Chairman.

Mr. HORN. On that last point, it seems to me if you picked a city, you could pick mine if you want, Long Beach or the State, California, you can get those incorporations and those business licenses. They're glad to render it for a fee, and that might be one way to check when businesses are coming in and going out. So it just seems to me there's a way to collect $49 billion if we put our minds to it.

And I guess that I would ask you, Commissioner, what, in particular, are you going to do in response to the GAO report? I know you feel they're right.

Mr. ROSSOTTI. Right. I mean, as I indicated in my testimony, there are some specific individual initiatives that we can take, particularly with respect to the trust fund recovery penalty. We have some initiative to try to clean up what are called the transcripts in the initiation of these trust funds recovery penalties. Although I don't want to overstate the effect of that, because this is one of the most extreme examples, as GAO has noted, of the deficiencies of a computer system where we have two tape files, you know, one on individual taxpayers and one on business taxpayers, and the process of managing this trust fund recovery is very, very labor intensive and very error prone, but we do have to do some things to try to improve the cleanup of that, and that's probably one of the most important things.

We do have a few specific initiatives on the payroll. Probably one of the more important is this pilot project on the early intervention with monitoring and mentoring. But, in all honesty, the degree of impact that we can have on improving this by these kinds of steps is relatively limited. I really have to say that, very honestly, is relatively limited. The sources of this problem are very fundamental, and they go to the things that we are talking about.

And I think that it would be wrong to tell this committee that there's anything that we can do that's going to have a big impact on this area, short of what we really need to do, which is a very, very fundamental modernization and revamping of our whole collections and process and especially the technology.

We also have the issue that I think was raised by GAO of the more recent decline in statistics. I mean, underlying all of this, we also have a need for improvement on taxpayer rights that we're trying to implement that was called for by the Restructuring and Reform Act, and we haven't talked about that here. And I don't want to imply that I don't support that, because I think it's the right thing to do, to have these taxpayer rights.

But the immediate impact of this, short of having also improved our technology, is simply to elongate the process. I mean, it goes in the exact opposite direction in some ways, not that it can't be compensated for in the long run. But in the near term what it does it adds more boxes to this chart and more labor-intensive processes that have to be done manually which, in turn, reduces the number of collection activities that are—the number of cases that our of-

fices can work. So this is another aspect of what we're dealing with.

The net effect of this is that I think that there are some immediate steps that we can take, particularly in the trust fund area that can have some effect, ameliorative, the mentoring and monitoring program. These are steps and clearly we will do those and monitor them, but it would be misleading everyone to believe that this problem can be solved in any short-term way by anything we do, short of really revamping this whole process.

Mr. HORN. Let me throw out a suggestion for you to think about. You've got about 102,000 employees, as I remember, unless there's been some changes. Suppose you gave them a little crib sheet and a phone number and they phoned up some of these people. Each one of them to be in touch with real people. Some of them aren't in touch with real people. A lot of them are. But you would make it an agency effort. It's like libraries, that sort of have a Good Samaritan Day bring the books back kind of thing.

What about using those 102,000 people to make one call a week?

Mr. ROSSOTTI. The trouble is, all of those 102,000 people are doing something. And most of them, you know, there's—in order to even contact the taxpayer, the IRS, there's many requirements, OK, that are legally imposed. You know, without the proper training I would be a little reluctant to have people calling taxpayers, also without having necessarily the correct information. So I think that might be a hard one to implement in our current——

Mr. HORN. Think about it.

Mr. ROSSOTTI. OK.

Mr. HORN. It's like having a campus blood drive or something. You get their juices going and see if they can win.

Mr. ROSSOTTI. OK.

Mr. HORN. And, you know, give flowers to the ones that win.

Mr. ROSSOTTI. OK.

Mr. HORN. You heard the discussion on computer capability and intraoperatability between agencies. What do you think about trying to get the benefits straight from other agencies?

Mr. ROSSOTTI. Well, I wasn't quite clear as to whether—I did hear the question, but I wasn't quite clear as to whether the idea was that, for example, when another agency was making a loan to an individual that they first check——

Mr. HORN. To see if the taxes were paid.

Mr. ROSSOTTI. And they would check with the IRS rather than the taxpayer, is that the idea?

Mr. HORN. They could ask the taxpayer, but there ought to be a way that they check the IRS.

Mr. ROSSOTTI. Yes, there is a way to do that; and private mortgage companies can do that, too. And it requires the approval of the taxpayer, but if they're requesting a loan, you know, that could be a requirement. And they can request a transcript from the IRS of their taxes. So that is an ongoing process.

Let me just say that this is another example, interestingly though, that the current process for doing that—and it's exactly for that purpose—I mean, it serves that purpose. If you're applying for a loan, you sign a waiver. You send it in a request to the IRS. We do a transcript of your—it's called a transcript. It basically says,

here's the situation, whether you've paid your taxes and send it to the lender. So that serves that purpose.

The real problem right now is a very manual-intensive process. It takes about 6 to 8 weeks to do that. We have a proposal that we're working on to do a more automated version through an e-mail kind of a process that would speed that up dramatically. The principal issue there is various security and privacy issues. Because here we run into some security and privacy concerns that if there's, you know, risk of unauthorized people getting access to taxpayer records, that could be a problem.

So there is a process right now to do it, and it could be implemented. It's just a little labor intensive and a little time consuming, but with some additional investment, we could automate that process.

Mr. HORN. One of the concerns we've had before is when various excise taxes come in to the Internal Revenue Service. There's a coupon on them, but there's apparently not a coupon that says this is Medicare deduction. This is Social Security deduction, and all the other deductions one has.

Mr. ROSSOTTI. Yeah.

Mr. HORN. And instead of that we just dump it all in one big pile, and you've got an office of—what—analysis that—and Social Security has it that they say, well, this percentage is ours, you owe us for our account. And the fact is there isn't a real trust account there.

Now we've tried to lock that off so Presidents can't put their fingers on it and spread it around on all sorts of Santa Claus programs. Instead, we want to preserve Social Security. So we've heard of a 10 percent radioactive fence right around that so-called trust fund.

Now, do we have a trust fund or don't we? And why can't we get them to put the coupon on and actually add those up with all that new high-powered computer machinery that you have?

Mr. ROSSOTTI. Yeah. There's two parts to this. One is what we would have to do internally—first off, let me just say that you are correct in that the tax deposits that are made on a weekly basis or depending on the taxpayer's frequency are just that, they're a deposit. They're not a tax return. And, traditionally, they have only designated very limited information so they don't precisely say what tax trust fund each tax should go for, excise taxes or Social Security taxes. This then requires a reconciliation process, which is what you've described.

I think that, you know, it certainly would be feasible to require precise designations at the time of deposit rather than at the time of return, if that would be possible. But there are two issues that have been, I think, repeatedly stood in the way of this. The more—one issue is just internal. We don't have the computer systems, again, to process this data right now.

Mr. HORN. On that very point——

Mr. ROSSOTTI. Yeah.

Mr. HORN [continuing]. You are familiar with the universal price system in your friendly grocery store, and they can just do a sweep like all of those coupons, and you would have an accurate statement of what should go where.

Mr. ROSSOTTI. Well, we have the—we actually do scan the coupon. In fact, most of it does come in electronically through banks.

Mr. HORN. But it doesn't have it subdivided into Medicare and Social Security?

Mr. ROSSOTTI. And that's—I said the easier problem to solve is the systems problem. That could be solved. The more difficult question is really a policy question and I think, you know, possibly would require consultation broadly through our Congress, because it would require putting an additional mandate on taxpayers. It would require taxpayers who currently can file a relatively simple—just, here's the total dollars, and then just file a return once a quarter.

Mr. HORN. You're putting it on taxpayers, in quotes, you're putting it on the employer to deduct it. One of the greatest schemes ever known to mankind, Beardsley Rummell in the Second World War, take it out before you give them the money.

Mr. ROSSOTTI. It's true.

Mr. HORN. The citizens—are having a terrible time. A lot of people up here don't agree with that.

Mr. ROSSOTTI. Well, I'm simply saying what it would require—and I'm not debating the merits of it. What it would require is telling employers, businesses—and many of them, or at least a fraction of them, a significant fraction of them are small businesses—that whereas today they can file a relatively simpler thing which says here's how many dollars we're depositing, it would require them to enumerate—obviously, it would require them to enumerate how much was for each purpose.

It may seem like a simple thing to do. I found that, with businesses, when you ask them to put more information on forms, they don't always respond with great enthusiasm to that proposal. And they can do it now voluntarily through the electronic system, but I think to make it complete, to provide accurate information, it would have to be mandated. And that would be the policy issue. Do we want to mandate, you know, a couple million businesses to put that more detailed information at the time they make these deposits.

And I don't really think it's a decision that the IRS should make, actually. I think that's a policy issue that ought to be determined through some process.

Mr. HORN. Somewhere in the law it must say you're supposed to give us—in the case of IRS, you're supposed to give half of that salary to a certain level and match it.

Mr. ROSSOTTI. Yes.

Mr. HORN [continuing]. With the employer's share. It's the employer's share. The employee's share, now, they give you very complicated payment statements. Practically everybody has that. I don't know why everybody can't—if everybody is doing it, why can't the IRS do it and get them to put the accurate amount? Because what I'm hearing is that, let's say somebody makes $30,000 a year, and you've got maybe $5,000 goes for the employer, $5,000 for the individual, and what it sounds like is they can just write you a check, and it might only be $4,000, when they should have matched it to $5,000 or vice versa.

Mr. ROSSOTTI. It's a question of when they do it, because they do require quarterly, for example, on employment taxes to file a tax return that lays out what those details are. The difficulty is that prior to the time that they filed their tax return, they actually have to deposit the cash, usually weekly or biweekly, depending on what size of employer they are; sometimes more frequently with each payroll.

It's the reconciliation of those things that makes the issue. We do have the tax return and they do file the tax return quarterly in the case of employment taxes and also the excise taxes. But the real issue is what to do with the deposits. The deposits is when they actually send us the cash and the deposit is just that. As it is conceived today, it's not a tax return. It's just a deposit. It's just a cash advance, if you will, that says this is a cash advance we are sending you generally for this purpose. It's not, as a tax return is, detailed as to what precisely is there.

So what would have to be done to be totally precise along the lines of I think what you are suggesting, is we would have to convert the deposit instrument into something that lays this out in detail. In our electronic deposits, we already have the capability of doing that. But the question that comes up is do we mandate the taxpayers to provide us that detail at the time of deposits, which is more frequently than at the time of returns. That's a question that I don't know that it's up to the IRS to make a decision on it. It is really more of policy question. Certainly, if that was a decision of Congress that that was what was required, that that was——

Mr. HORN. We look at our check and we see what is taken out of it. If they are not depositing it, it seems to me that's where we think they are depositing it because they have deducted it off of our gross payroll. Where is it? Is it an endowment for swimming pools or what? We have great curiosity.

The average person that goes and gets their check once a month by electronic deposit with a long list of things that have been deducted, health care and all the rest, noble causes all; but if they are going to do that, why not put the money in there on the other side? They have deducted it from us.

Mr. Turner, the gentleman from Texas.

Mr. TURNER. Just one followup question, Mr. Rossotti. Did I understand you to say that if an SBA loan officer wants to find out whether or not the individual that he is loaning this SBA money to owes payroll taxes to the IRS, that he could make a call to find that out; but if he did, it would take 6 weeks for him to get an answer?

Mr. ROSSOTTI. Right. That's the way it works. To get a transcript of taxpayer information today is a very manual and intensive process. You can't just make a call. You have to send in a form, get a taxpayer authorization that goes through a manual process. I know this sounds startling. I have been in this office a year and a half. I have found many startling things. One of the places that we do this is in Tennessee.

Not to tell a war story, but my first trip down to an IRS service center, I was down in the service center of Tennessee, and I was asking about this process because I used to do business with mortgage companies that check these kinds of things and I asked about

this. Sure enough, it takes 6 to 8 weeks. They said, There is a car factory down the road. They can build you a car quicker than we can give you a transcript for a taxpayer on their return.

It isn't that we have bad people that are doing a lousy job. The process is extremely labor intensive, it is not computerized really at all. There is any number of different steps that you have to go through. By the time that you mail it and so forth, it takes about 6 weeks. We have a pilot project that does it electronically, I am sure an e-mail system that basically does it almost instantaneously. This is something that has been piloted and would speed it up to almost nothing.

The issues there have to do with both some technology issues, but mostly privacy issues, in ensuring that there is adequate security; because the other thing that we bump up into anytime that we release taxpayer data, anybody, we have very strong requirements on us to ensure that (a), that it's only given to somebody that is authorized to receive it; that it is not misused for other purposes; that it isn't intercepted during transmission; that there is a whole variety of security requirements that have to be met.

So when you start to transmit it out electronically through the e-mail type of environment, you run into those kinds of issues.

The real solution to this, though, I believe, is to automate this through an e-mail process so that any taxpayer that wants to get a loan or wants to get their information to verify something that they need should be able to send an authorized transaction and have it sent back right away. That's clearly the right way to go.

Mr. TURNER. I hope that your modernization program will get you there so that we can do that. And in the meantime, I hope that we can persuade the Small Business Administration to request of the IRS 6 weeks in advance to find out before they close the loan and disburse funds——

Mr. ROSSOTTI. There may be some way that we could work with the Small Business Administration. There might be some ways, frankly, if the Small Business Administration set up a process for us, that we could work a special way to get to them quicker than 6 weeks.

Mr. TURNER. The GAO study that we heard testimony on this morning, if we could solve that one problem, we could save $31.6 million in unpaid payroll taxes if somebody would just ask before they disbursed the funds.

Mr. ROSSOTTI. We would be more than happy to work with the Small Business Administration on that issue. We have a good relationship with them today. The administrator is someone that I have gotten to know. If that was something that—we would be happy to work with them on that. We have all of these little sort of special solutions that we come up with to work these particular problems in the interim. It's not the right way to go long-term, but we can do some of these things if we work on it.

Mr. HORN. Let me ask before we wrap this up, does the General Accounting Office have any other comments they would like to make based on this discussion? They don't? Your lucky day.

Commissioner, we assure you we want to do everything that we can to help you. We are from the government, too. We are here to help you. I have great confidence in your leadership.

Mr. ROSSOTTI. Thank you.

Mr. HORN. And I hope that when we meet again, you will have that $49 billion in the nearest Federal depository run by the Treasury. That would help us on a lot of things that we have to do here, like dealing with Medicare. That $49 billion would sure help us right now. We hope that you will find it soon.

Let me thank the staff here that helped on this: Russell George, the staff director and chief counsel; Randy Kaplan, to my left and your right, the counsel and professional staff member; Bonnie Heald, director of communications back there; Grant Newman, our clerk; Chip Ahlswede, our staff assistant; and Seann Gallagher, the intern for us. And then on the minority side, we have Michelle Ash and Trey Henderson and Early Green and Jean Gosa, minority professional staff members. And we have our two court reporters, Randy Sandefer and Cindy Sebo.

I thank you gentlemen for coming and I wish you well; and as you know, if we don't see you before, we will see you on April 15th as usual.

We are adjourned.

[Whereupon, at 12:09 p.m., the subcommittee was adjourned.]

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