

DECEPTIVE MAILING CONCERNING TAX REFUNDS

HEARING
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT
OF THE
COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES
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**DECEPTIVE MAILING CONCERNING TAX
REFUNDS**

THURSDAY, JULY 19, 2001

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON OVERSIGHT,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:00 p.m., in room B-318, Rayburn House Office Building, Hon. Amo Houghton [Chairman of the Subcommittee] presiding.
[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON OVERSIGHT

FOR IMMEDIATE RELEASE
July 12, 2001
No. OV-6

CONTACT: (202) 225-7601

Houghton Hearing on Deceptive Mailing Concerning Tax Refunds

Congressman Amo Houghton (R-NY), Chairman, Subcommittee on Oversight of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing to investigate recent reports of a deceptive mailing. Unsuspecting taxpayers are being solicited by a group, calling itself the Revenue Resource Center, that is attempting to convince taxpayers to pay approximately \$15 to receive a fact sheet that purports to outline the amount of their upcoming U.S. Department of the Treasury refund check. **The hearing will take place on Thursday, July 19, 2001, in B-318 Rayburn House Office Building, beginning at 2:00 p.m.**

Oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

BACKGROUND:

The Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16) directs the U.S. Treasury Department to send checks to most taxpayers beginning later this summer as an advance payment to reflect the new 10 percent tax bracket.

However, there have been recent reports of unscrupulous entities hoping to take advantage of taxpayers who may want further details about their eligibility for this tax refund payment. Taxpayers in at least five States have received postcards designated as "2001 Form 16-B," resembling an official Internal Revenue Service (IRS) tax form, and bearing the designation, "Revenue Resource Center," a "Non-Partisan Bureaucratic Agency." The postcard offers to send information on the amount of the recipient's tax refund check in exchange for \$14.95. The postcard, which may be easily confused with official IRS correspondence because of its use of certain terms, typeface, and a quotation attributed to President Bush, requests money "in order to identify the amount of the tax credit you are scheduled to receive."

In announcing the hearing, Chairman Houghton stated: "Everyone should be on guard against deceptive mailings that attempt to look like they come from the government and are trying to sell a service the government provides for free. We have to let people know that if they receive this postcard, they should ignore it." In passing the tax relief bill, Congress anticipated questions about these payments, and directed the Treasury Department to send taxpayers a letter telling them the specific information they need to know about their tax refund check. Taxpayers can learn further details about their refund by checking the Internal Revenue Service web site, www.irs.gov.

FOCUS OF THE HEARING:

The hearing will highlight the deceptive mailing being sent to individuals and the way taxpayers can find legitimate information about the tax payment checks they may soon receive.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Any person or organization wishing to submit a written statement for the printed record of the hearing should *submit six (6) single-spaced copies of their statement, along with an IBM compatible 3.5-inch diskette in WordPerfect or MS Word format, with their name, address, and hearing date noted on a label*, by the close of business, Thursday, August 2, 2001, to Allison Giles, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Oversight office, room 1136 Longworth House Office Building, by close of business the day before the hearing.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be submitted on an IBM compatible 3.5-inch diskette in WordPerfect or MS Word format, typed in single space and may not exceed a total of 10 pages including attachments. **Witnesses are advised that the Committee will rely on electronic submissions for printing the official hearing record.**

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, company, address, telephone and fax numbers where the witness or the designated representative may be reached. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press, and the public during the course of a public hearing may be submitted in other forms.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Chairman HOUGHTON. All right. The meeting will come to order. So now, on behalf of Mr. Coyne and myself, I welcome everybody here, and I thank you very much for your presence. I am just going to say a word or two, and then I will turn it over to Mr. Coyne, and then we will have the testimony.

Just a few words: The hearing today focuses on a very deceptive mailing and trying to take advantage of unsuspecting taxpayers. It happens all the time, but it is particularly egregious now, and these mailings attempt to deceive taxpayers that prey upon the will of law-abiding citizens, often by just plain misrepresenting what a government agency says, such as the Internal Revenue Service (IRS).

And as we will really put a fine point on for this hearing, in recent reports, as you know, about a deceptive mailing associated with the tax rebate checks soon to be issued by the Treasury Department.

The mailing, in the form of a double-sided postcard displayed in front of me—and displayed in front of me right over there—has been sent to taxpayers in at least six States from an entity called the Revenue Resource Center. That sounds pretty authentic, doesn't it?

[The opening statement of Chairman Houghton follows:]

**Opening Statement of the Hon. Amo Houghton, M.C., New York, and
Chairman, Subcommittee on Oversight**

Good afternoon. Today's hearing focuses on a deceptive mailing that is designed to take advantage of unsuspecting taxpayers. These mailings attempt to deceive taxpayers and prey upon the good will of law-abiding citizens, often by misrepresenting a government agency, such as the IRS, as we will see at this hearing.

Recent reports have surfaced about a deceptive mailing associated with the tax cut rebate checks soon to be issued by the Treasury Department. The mailing, in a form of a double-sided postcard, displayed in front of me, has been sent to taxpayers in at least six states from an entity called the Revenue Resource Center.

Now, at first glance, this looks like an official Internal Revenue Service document, with terms like "Form 16-D—Taxpayer Refund Relief Information Worksheet," "Bureaucratic Agency," "Taxpayer Activity Report," and a quote from President Bush citing the need for tax relief.

The card asks taxpayers to send in \$14.95 for a fact sheet about their upcoming Treasury Department refund check. And, I think the card uses a very suspect tactic when it says the recipient should return the card "to assure proper delivery." Some people might think this means that they must "send in \$14.95 to assure proper delivery of their refund check."

Today, with the assistance of the Internal Revenue Service, the U.S. Postal Service, and through the work of state consumer protection agencies, like the one headed by Ohio Attorney General Betty Montgomery—we will expose this fraud.

We will hear from two witnesses to answers some important questions and help us get to the bottom of this deceptive mailing.

Through this hearing, I hope the public will learn to be on guard against deceptive mailings.

I am pleased to yield to our ranking Democrat, Mr. Coyne.

Chairman HOUGHTON. Now, at first glance, this looks like an official Internal Revenue Service document with terms like "Form 16-D," "Taxpayer Refund and Relief Information Worksheet," "Bureaucratic Agency," "Taxpayer Activity Report," and then a quote from President Bush citing the need for tax relief.

Now, the card asks taxpayers to send in \$14.95 for a fact sheet about their upcoming Treasury Department refund check, and I think the card uses a very suspect tactic when it says the recipient should return the card to "assure proper delivery," quote, unquote. Some people might think this must mean that they send in \$14.95 to "assure proper delivery" of their refund check.

So today, with the assistance of the Internal Revenue Service, the U.S. Postal Service and the work of State consumer protection agencies, like the one headed by Ohio Attorney General, Betty Montgomery, we are going to expose this fraud; and we will hear from two witnesses to answer some of the important questions and help us get to the bottom of this deceptive mailing.

So through this hearing, I hope the public will soon learn to be on guard, not only about this, but also other deceptive mailings. So what I am pleased to do now is to yield the floor to our ranking Democrat, Mr. Coyne.

Mr. COYNE. Thank you, Mr. Chairman. The tax laws are complicated enough, as we know, without having scam artists preying on the public with misleading tax information and offers to provide, for a fee, completely unnecessary tax assistance. I am pleased that the Oversight Subcommittee under the leadership of Mr. Houghton is holding today's hearing on the most recently discovered tax scam. I hope that we learn from today's testimony that this scam has been shut down.

Taxpayers nationwide are beginning to get their letters from the IRS concerning the amount of their upcoming tax rebates. The rebate program was designed to be very simple, as today's hearing will confirm; and taxpayers don't need to do anything to get their rebate.

Mailings from anyone offering to help in this process for a fee should be considered a fraud and should be forwarded to the Treasury Inspector General's office, or the IRS.

I want to thank Chairman Houghton for quickly scheduling this hearing from the information that has been brought to our attention, to see if we can't get to the bottom of it.

Thank you.

[The opening statement of Mr. Coyne follows:]

Opening Statement of Hon. William J. Coyne, M.C., Pennsylvania

The tax laws are complicated enough without having scam artists preying on the public with misleading tax information and offers to provide—for a fee—completely unnecessary tax assistance.

I am pleased that the Oversight Subcommittee is holding today's hearing on the most recently discovered tax scam. I hope that we learn from today's testimony that the scam has been shut down and that the perpetrator is under criminal investigation.

Taxpayers nationwide are beginning to get their letters from the IRS concerning the amount of their upcoming tax rebates and the process for receiving them. The rebate program was designed to be very simple—as today's hearing will confirm, taxpayers don't need to do anything.

Mailings from anyone offering to help in this process for a fee should be considered a fraud and should be turned over to the Treasury Inspector General's Office or the IRS immediately.

I urge that the Subcommittee continue to investigate tax scams as they surface. Finally, I want to thank Chairman Houghton for quickly scheduling this hearing.

Chairman HOUGHTON. Okay. Thank you, Mr. Coyne.

I have got to say something about Mr. Coyne. One of the nice things about being on this Subcommittee is that I really do think we work in a bipartisan way, because there are a lot of people who claim they do, but—you can hear the bugles, but you don't see the

horses coming over the hills. But we really, I think, do the best we possibly can. So I am delighted to join with Mr. Coyne in this.

The two program members, just let me introduce you. You don't need any introduction for yourself, but I think for the rest of the people here: Mr. Robert E. "Bob" Wenzel, who is the Deputy Commissioner of the Internal Revenue Service; and then Larry Maxwell, Inspector in Charge of Fraud, Child Exploitation and Asset Forfeiture Division, United States Postal Service.

And so would you begin the testimony, please, Mr. Wenzel.

**STATEMENT OF ROBERT E. WENZEL, DEPUTY COMMISSIONER,
INTERNAL REVENUE SERVICE**

Mr. WENZEL. Thank you, Mr. Chairman. We welcome the opportunity to testify before this Subcommittee about the recent attempt to lure taxpayers into needlessly paying for information about their advance payment checks. The IRS is providing the information free of charge to all taxpayers in a series of mailings that began just this past Saturday. We fully share the Subcommittee's concern and outrage about this contemptible effort to prey upon unsuspecting taxpayers, and applaud your efforts, Mr. Chairman, in exposing such unscrupulous activity through this hearing.

The IRS appreciates the help offered by you, the Department of Treasury, and many other interested parties who are able to raise public awareness about this serious problem. We have placed an alert on the front page of our Web site and certainly welcome any other suggestions you might have.

We are concerned about all fraudulent schemes and solicitations, particularly those such as mail or wire fraud that rise to the level of criminal activities. While we do not have independent jurisdiction to investigate mail and wire fraud, we work continuously with the appropriate Federal law enforcement agencies that have such authority to help ensure that any such conduct is addressed.

Mr. Chairman, long before this scam appeared, we anticipated that there would be enormous interest in the advance payments. We took immediate steps before and directly following the enactment of the Economic Growth and Tax Relief Reconciliation Act to help taxpayers understand the process and to provide them with legitimate free information.

On May 31st, we inserted a general announcement before the prompts on our toll-free telephone lines. Our representatives on the toll-free telephone lines were also provided helpful scripts and answers to frequently asked questions so they could better assist taxpayers.

And even as the bill was being signed by our President on June 7th, we began issuing a nationwide press release and accompanying fact sheets with details about the advance payment checks. In the release, we told taxpayers that we were working together to make this process as simple as possible. We informed them that they would receive a letter describing the check amount and identifying the week it would be sent.

We also committed to sending a letter of explanation for taxpayers who would not be eligible to receive the advance payment. And at the same time, we posted information on the IRS Web site

that we call the "Digital Daily" about the advance payment checks and the advance payments process.

Beginning June 27th, taxpayers calling on the toll-free telephone lines were able to automatically receive information both on eligibility for the advance payments, as well as about the check mail-out schedule; and we have made this information available to taxpayers in both English and Spanish.

The IRS and its employees have worked very hard to get the message out about the checks. Throughout our communications, we emphasized that taxpayers did not need to call us, fill out any special forms or do anything else to receive the check.

Mr. Chairman, as you are aware, of the 112 million advance payment notices printed, approximately one-half of 1 percent, or approximately 500,000 notices, contained incorrect information concerning the amount of the check that taxpayers would receive. This was a human and not a systemic error.

I would like to stress, Mr. Chairman, that the error was detected very quickly and corrected prior to the printing of the checks. Taxpayers will receive a check for the correct amount.

We apologize for any confusion the incorrect notices may have caused, and in order to reduce that confusion, the IRS is sending corrected notices to the affected taxpayers.

In conclusion, Mr. Chairman, we want to do all we can to ensure that taxpayers do not fall prey to solicitation schemes. One of the best ways to accomplish this is by providing taxpayers with specific information about when they may expect their checks and how much they may expect to receive in their advance payment checks. The IRS will continue to provide this information through a variety of channels, and we look forward to working with you and the Subcommittee to combat this type of problem now and in the future.

Thank you, and I would be happy to answer any questions.

[The prepared statement of Mr. Wenzel follows:]

Statement of Robert E. Wenzel, Deputy Commissioner, Internal Revenue Service

Mr. Chairman, I welcome this opportunity to testify on the recent attempt to lure taxpayers into needlessly paying for information about their advance payment checks. The IRS will provide this information free of charge to all taxpayers in a series of mailings that began on Saturday.

I fully share the subcommittee's concern and outrage about this brazen attempt to prey upon unsuspecting taxpayers. And I applaud your efforts, Mr. Chairman, to expose this unscrupulous activity through this hearing. As Justice Brandeis often remarked, "Sunshine is the best disinfectant." We will work with you, the Department of Treasury and all interested parties to help raise public awareness about the problem. We have placed an alert on our web site and we certainly would welcome any suggestions you might have.

The IRS is concerned about any scheme or fraudulent solicitations, particularly those that might rise to the level of criminal activities, such as mail or wire fraud. While the IRS does not have independent jurisdiction to investigate mail and wire fraud, we will work with the appropriate federal law enforcement agencies that do, such as the Postal Service, to ensure that any such conduct is addressed.

Mr. Chairman, long before this scam appeared, we anticipated that there would be enormous interest in the payments. We took great steps before and immediately following enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 to help taxpayers understand the process and to provide them legitimate and free information through a variety of channels.

After passage of the conference report to the legislation, we began to receive taxpayer calls. On May 31, 2001, in response to these calls, we provided on our toll-free lines the following general announcement before the prompts: "If you are call-

ing about the recently passed tax refund, there is nothing you need to do to receive this check. The Internal Revenue Service will send you a letter by the middle of July telling you the amount of the check you will receive and when you will get it. The IRS will begin mailing these checks by the third week in July. Please note all payments will be made by check and direct deposit is not available. Again, there is nothing that you need to do to get the check." Our representatives on the toll-free telephone lines were also provided helpful scripts and answers to frequently-asked-questions to assist taxpayers.

As the President was signing the bill on June 7, IRS' Communications and Liaison Division began issuing a nationwide press release and accompanying fact sheets with the details of the advance payments checks. In the release, we stated that the IRS wanted to make this process as simple as possible. Taxpayers would receive a letter describing the check amount and the week it would be sent. We would also send a letter of explanation for taxpayers not eligible for the advance payment.

We emphasized throughout our communications that taxpayers did not need to call, fill out special forms or do anything else to receive the check. Commissioner Rossotti was quoted as saying, "All you need to do is open your mailbox. We'll take care of everything else. You don't need to do anything else to receive the check."

By our calculations, as of July 6, IRS staff across the nation answered 168 media inquiries, initiated nearly 400 media contacts to interest reporters to cover the story and participated in almost 370 interviews with television, radio and print reporters. It was front-page news or the lead story for many broadcasts.

IRS National Public Liaison also shared the fact sheets and releases with their key practitioner contacts. The Government Liaison Division staff in the field began briefing state tax administrator and local congressional offices using the prepared materials. At the same time, we posted on the IRS web site, the Digital Daily, a cover story on the advance payment checks as well as a special page on the advance payments.

On June 27, taxpayers calling on the toll-free telephone lines were able to automatically receive information both on eligibility for the advance payments as well as the check mail-out schedule. The information is available in both English and Spanish. Clearly, we have worked very hard to get the message out about the checks.

Mr. Chairman, as the subcommittee is aware, of the 112 million advanced payments notices printed, approximately half of one-percent or 500 thousand, contained incorrect information on the amount of the check taxpayers would receive. The incorrect information was the result of human error that failed to limit, in some cases, the tax relief amount. This was not an error in our systems. In order to reduce the confusion, the IRS will send corrected notice as soon as possible to the affected taxpayers. Let me stress, Mr. Chairman, that the error was quickly detected and corrected prior to any information being sent to FMS for the printing of checks. Taxpayers will receive a check for the correct amount. We apologize for any confusion the incorrect notices caused.

Mr. Chairman, in conclusion, we want to ensure that taxpayers do not fall prey to the solicitation schemes. One of the best ways to attack this problem is by providing taxpayers with the specific information they need about their advance payment checks. Therefore, the IRS will continue to provide this information through a variety of channels and we look forward to working with you and the Subcommittee to address this problem. Thank you and I would be happy to answer any questions you have.

Chairman HOUGHTON. Well, thanks very much, Mr. Wenzel. I am sure we will ask questions, but let us go to Mr. Maxwell's testimony first.

STATEMENT OF LAWRENCE E. MAXWELL, INSPECTOR IN CHARGE, FRAUD, CHILD EXPLOITATION AND ASSET FORFEITURE DIVISION, U.S. POSTAL INSPECTION SERVICE

Mr. MAXWELL. Thank you, Mr. Chairman, Mr. Coyne, and my thanks to the Subcommittee for inviting us here.

Briefly, the Postal Inspection Service is the law enforcement arm of the Postal Service. We have been around since the beginning of the Postal Service, for about 200 years.

We have two primary weapons in the war against fraud, the mail fraud statute, which I refer to as the granddaddy of all consumer fraud protest statutes, that was enacted in 1872; and we also have a civil remedy, false representation, under Title 39, 3005, and that was amended by Congress last year—enhanced, I should say—through the Deceptive Mail Prevention and Enforcement Act, which has been a tremendous boon to us. And, in fact, in this particular instance, I would call this case the “the poster boy for fraud opportunities,” because of how it fits a government look-alike.

Following Mr. Wenzel, I will say—I will restrict my remarks primarily to the investigation of this mailing and what happened here; and I should say, first up, that IRS does have their own excellent Criminal Investigation Division, but as Mr. Wenzel said, this fraud falls beautifully within the Inspection Service’s statutes. I should point out we have worked very closely together over the many years.

This is the actual postcard. As you see, it is a postcard and that is the blowup of it. It is a First Class postcard, very authentic, looks like a nice government mail piece.

You probably have heard of the movie shown last year, “The Perfect Storm,” and the book. If there was ever a scene set for the perfect fraud scheme, I would say this was it. You have a very good thing happening, that is, anticipation of a refund check. The public is aware; they know what is coming. And then in the midst of this, you have an opportunist jumping in with an offer that you have to pay to get the information, which is actually available free.

That, in and of itself, is a violation under the Deceptive Mails Act, and that is what we focused on.

Thanks to a Member of your staff, Mr. Walder, sitting behind you, who is familiar with our agency, we were alerted to the card and the promotion before we even received a complaint. And that is not uncommon, that in instances like this where it seems like a legitimate operation, that we do not receive the complaints until people have actually paid money. And that is the sad part of fraud, because you can prevent it if you can intercept it beforehand.

Arresting people, prosecuting people is excellent; it is a good enforcement tool, preventive measures. But it is better to prevent victimization if we can, and this is a beautiful case of it.

When Mr. Walder referred it to us, we were able to take swift action by filing a false representation order—a complaint, actually, for false representation order. It is on file now with our law department, and that was filed on July 16th. We were able to also withhold the mail, which at the time was only literally a handful of pieces that came in, so we are very lucky to have minimized the number of victims, I think, in this case.

Interestingly, though, the operator learned of our intervention, and this is very typical, then moved to another address location. And if you notice on the address, Revenue Resource Center, it has the designation on the second line at the end, PMB. PMB stands for “private mailbox,” and that is a new regulation that the Postal

Service just put out last year for commercial mail receiving agencies, and it was to mirror the——

Chairman HOUGHTON. Where is that?

Mr. MAXWELL. It is on the address at the bottom of the card, at the very bottom left corner.

Chairman HOUGHTON. Oh.

Mr. MAXWELL. And that is for “private mailbox.”

What we did when we worked with the commercial mail receiving industry on making the regulations, it was so that the public would have a means to know that this is not a physical address; this is a commercial mail receiving agency. It helps us in fraud prevention. That was what we were hoping, that at least the public would know who they were mailing their money to, and if it was a P.O. Box, it would say a P.O. Box, so they could explore whether they want to send their money to this location or not.

The promoters in this case did open another address in the Northeast, in the Boston area, which we just became aware of. We are in the process of amending our complaint now to include that address.

And there is a potential here, based on some of the claims made, where there could possibly be criminal violations here for mail fraud.

So I am here, and I am happy to answer any questions for the Subcommittee. Thank you very much.

[The prepared statement of Mr. Maxwell follows:]

Statement of Lawrence E. Maxwell, Inspector in Charge, Fraud, Child Exploitation and Asset Forfeiture Division, U.S. Postal Inspection Service

Thank you Chairman Houghton, Congressman Coyne and other Members of the Subcommittee for the opportunity to testify today.

The U.S. Postal Inspection Service is responsible for protecting postal employees, the mails and postal facilities from criminal attack, and for protecting consumers from being victimized by fraudulent schemes or other crimes involving the mails.

In the last Congress the “Deceptive Mail Prevention and Enforcement Act” was passed by Congress and signed into law by the President. This law provided new disclosures to be made on certain mailings, afforded the Inspection Service with additional investigative tools and extended penalties to be levied upon violators of the law. One section of the law applies specifically to the type of mailing made by the “Revenue Resource Center” out of Boca Raton Florida.

The mailing done by “Revenue Resource Center” offers to provide a service that the government provides for free for a \$12.95 processing fee and rush service is also offered for an additional \$2.00. For the fee, the Revenue Resource Center will calculate the amount of a refund the taxpayer is due. The paid service is provided for free by the IRS. Millions of taxpayers will receive notice of the amount of their refund checks and when they can expect them.

The law provides that any solicitation for the purchase or payment for any product or service that is provided by the federal government for free must contain a clear and conspicuous statement that this product or service may be obtained from the Federal Government for free.

On July 17, 2001 a Complaint was filed by the U.S. Postal Service against the mailing for violations of the Deceptive Mail Prevention and Enforcement Act. The Complaint will seek penalties, the new law allows for penalties based upon the number of mailings. The penalties can range up to \$1,000,000.

The investigation is ongoing. I will keep the Subcommittee informed of any additional activity regarding the subject mailing. In the past we have seen operations such as this one spring up in a various locations in an effort to stay one step ahead of law enforcement.

Thanks to the vigilant oversight of this Subcommittee, the specific legislation passed last Congress, and the swift action taken by the U.S. Postal Inspection Service consumers have been alerted and the scam will be halted.

Chairman Houghton, Members of the Subcommittee, I will be glad to answer any questions about the investigation that the Subcommittee might have. Thank you.

Chairman HOUGHTON. Before we go to questions, I would just like to introduce two other Members of the Subcommittee. Mr. Johnson over here—let me just put it this way. Anybody that has been in the military knows who a hero is, and this is a genuine 14-carat hero down here. And we are honored to have him on the Subcommittee, a wonderful contributing member.

And also over here, here is one of the new stars of Congress. He is from North—you better believe it—Dakota, is that what you call it?

Mr. POMEROY. North, by God, Dakota.

Chairman HOUGHTON. But anyway, thank you very much for coming.

Mr. POMEROY. Mr. Chairman, if you would yield, I might observe the—on the hero scale, we have kind of laid out, in respect, from most heroic down to me.

Mr. JOHNSON. What part of Dakota was that?

Chairman HOUGHTON. You know, I would just like to ask you a couple questions, and then I will turn it over to you, because I know you have some.

I would like to ask the basic question, is it necessary to have any explanation at all from anyone about these rebate checks?

Mr. WENZEL. Let me respond to that. I think it was very critical to share with taxpayers the amount that they would be receiving and the date that they would be receiving their refund check. I mean, when taxpayers started to hear about the possibility of the advance payments for 2001, we received that kind of inquiry, and we felt it was very important to let individuals know that.

Chairman HOUGHTON. Well, I have got another question that sort of tags along to that.

To help get the word out about the circulation of the tax rebate, can you explain to all of us here the details of the refund accounts? I know it is very easy to determine the amount each person will receive, but what about the details of the refund amounts?

Mr. WENZEL. On the amount itself, as to how they are calculated?

Chairman HOUGHTON. Yeah.

Mr. WENZEL. You know, it is an excellent opportunity for me to put in a plug here for our Web site.

Chairman HOUGHTON. Go right ahead.

Mr. WENZEL. And I really want to do that, because the details of that are on our Web site www.irs.gov. So it is really easy to get into, and right on our front page when it comes up on the "Digital Daily," all you have to do is click in and it points you to about six pages of information about how one gets the advance payment, how it is calculated; and it goes on, as I said, for six pages.

But I think one of the real highlights of this Web site is the fact that we give three specific examples: one that deals with a single taxpayer, one that deals with a head-of-household taxpayer, and one with the joint filing taxpayer; and it gives you the different scenarios in terms of the calculation and so forth.

Now, certainly not everyone has a computer at home or in their office that they could pull this down, but certainly a community center or a library—so, if they went in and just called down the www.irs.gov, it would give you a real clear explanation as to how the payment is calculated.

And then our notices, the 112 million notices that we sent out really provided the information—as best as we can put it in writing, and making it as concise as possible; and we were able to do that actually in just a half a page—in terms of what is a lesser amount, in terms of a couple, three conditions that would prevent one from receiving payment and the actual amount of their advance payment check.

We supplemented that, of course, with various—as I mention in my testimony—news releases, and they have gotten a lot of coverage around the country, front page news coverage; electronic media, TV, radio, if you will, took the time to explain how to calculate the amount one would get depending on their filing status. And also there were charts explaining when—stating when one might expect their refund check, and that it is dependent on the last two digits of their Social Security number.

Chairman HOUGHTON. And just a quick question for you: Who did these mailings, these false mailings, go to usually? What is the usual target?

Mr. MAXWELL. The usual target—again, it depends on the circumstances, and I have often thought if you look at indicators of the economy, one should also include fraud complaints, because if you have unemployment situations, you are going to get work-at-home schemes cropping up. If you have a bad financial picture, you are going to have credit repair. You are going to have credit advance-fee schemes.

In this instance, it obviously affects the entire country, so everybody, in this instance, I think, would be vulnerable to this type of scam.

But often deceptive mailings target certain sectors or demographics. For example, in one very major case we had, which was a deceptive mailing case and a telemarketing case, it was—used both strategies. The average age was 74 of the victim, and in that case, we actually had well over 12 million lost. So it is pretty significant. So they do definitely target.

Chairman HOUGHTON. Okay. Mr. Coyne, would you like to—

Mr. COYNE. Thank you, Mr. Chairman.

Mr. Maxwell, you indicated that the first notice that the postal inspectors had of this was from a Member here, a staff Member?

Mr. MAXWELL. Yes.

Mr. COYNE. You placed information on the IRS Web site alerting people to this problem. What other methods would you consider to get the word out to people that don't have access to a Web site?

Mr. MAXWELL. Well, one of the things, again, that we found in reaching people, 2 years ago we conducted a national mailing called Project Know Fraud, that focus primarily on telemarketing, but it included all frauds by alerting people where to go when they are victimized.

And what we found after we conducted nine focus groups, different age categories in different sectors of the country, and we

found out, to our dismay, being in law enforcement, that most people in this country do not know where to report the crime of fraud. They get very confused as to, who do we report frauds to?

In this instance, IRS, maybe Treasury? We received our first complaint in this case just this week; I would expect we will get a lot more soon.

But that is the problem. Prevention and education can be effective in a variety of ways. The Web site is great, but as you say, that is limited to people who are computer oriented. Newspaper ads.

We are in the process now—actually, next week, working in our Pittsburgh office with a local firm to prepare a mailing focusing on, again, on seniors that are subjected to telemarketing. Seniors are deluged sometimes. They are on mailing lists, and they will be called relentlessly.

So we are looking at another mailing, another postcard and possibly putting posters in post offices around the country. We have done that with child exploitation, and we think in fraud you can't do enough of that. I am a big advocate of prevention and education to the degree we can.

Mr. COYNE. Mr. Wenzel, is any tax legislation needed to prevent this type of scam?

Mr. WENZEL. Congressman, we don't think so. Right now the Deceptive Mail Prevention and Enforcement Act seems adequate to address the problem.

The public knows that it can obtain free information from IRS. For example, our Publication 17 is the document that we issue every year for individuals that, want to prepare their annual 1040 form. That publication is made available to other private sector companies as well. But we feel confident that the public knows that it can obtain it from the IRS free of charge. They can go to the IRS to obtain the like publication.

So we are comfortable with that.

Mr. COYNE. Mr. Maxwell, do you have any idea, estimate, of the number of people who have responded to the Revenue Resource Center?

Mr. MAXWELL. Right now, like I said earlier, we have just a handful of letters that we were able to find for that address, and that is all that has come in so far. Hopefully, we will be able to get a better handle in the next week or two on how many actually would have come in, because we will be able to stop them, stamp them and return them once we get the representation order, which I am confident we will be able to get.

I think we have gotten this very early, and certainly I couldn't ask for any better result than this because of the swift action.

Mr. COYNE. Do you have any sense of the source of the name and address that—names and addresses that the Revenue Resource Center used?

Mr. MAXWELL. Yes.

Mr. COYNE. What the source of that was?

Mr. MAXWELL. Yes. And if I may, I would like to hold back that information until it becomes public, because it is ongoing investigation. I will be glad to provide it to you as soon as we can make it public, and I could do so through the staff.

But, yes, we are aware of who is holding that box and also their address that I mentioned earlier up in the Northeast.

Mr. COYNE. Thank you. Thank you, Mr. Chairman.

Chairman HOUGHTON. Very good. Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman. It is a pleasure to be with you today, and would you allow me to enter the remarks in the record, please?

Chairman HOUGHTON. Yes.

Mr. JOHNSON. You know, I think you have done a good job with the summer rebate. And it is so simple, I don't know why it needs an explanation, frankly, but people gripe about you all sending the card out ahead of time.

But let's face it, you are doing that to try to find out if there are any bad addresses out there that you don't want to send a check to and have it rebated. So I appreciate what you are doing, and I think that most taxpayers can go to any number of reputable Web sites and free places to find information.

In fact, my own Web site, www.house.gov/samjohnson, has your information on it, and I think, Mr. Chairman, that we ought to get the whole Congress to put a warning out on this fraud that is going on because, you know, if we do that, then you are going to have people from all over the country pulsing our Web sites and finding out about this kind of stuff that is going on.

I am glad to know that you are interceding on letters coming back, but what can you do, if you would answer, to stop it totally by closing those mailboxes down? Can you do that?

Mr. MAXWELL. Yes. That is what the false representation order would do. In essence, the mail for that promotion would never go through, so anybody responding to this particular notice, that mail would never be delivered, so the money wouldn't get to them.

Mr. JOHNSON. How do you and your system sort that mail out?

Mr. MAXWELL. There are indications—when it is addressed to that, the postmaster is instructed by the order to review it. If they suspect that that is the mail, then they hold it aside. The actual owner of the box, the addressee, can come in and say, yes or no, and they open it in front of us; that is required if there is any doubt.

Normally, it is marked in a certain way. It will come in, you know, addressed to that address, and that may be the only mail in this instance coming to that address.

Mr. JOHNSON. So you just "return to sender?"

Mr. MAXWELL. "Return to sender," yes. It has a stamp on it saying "False Representation Order Issued," "Return to Sender."

Mr. JOHNSON. I see. But you can't actually physically close the boxes down?

Mr. MAXWELL. That gets a little difficult, in the sense of, one, we are dealing with a commercial mail receiving agency, which we don't regulate. We can hold delivery of the mail, but what we can do is return the mail for that promotion. Any other mail, they can get, unless we have evidence of some other crime.

Mr. JOHNSON. Okay. And you have answered who they are targeted to, and I think you are right on target with that. Thank you.

I think the information—getting the information out there is pretty important, Mr. Chairman. Thank you.

Chairman HOUGHTON. Okay. Thank you, Mr. Johnson.
Mr. Pomeroy.

Mr. POMEROY. I thank the Chairman. I commend you for your timely crackdown on this. I used to be an insurance commissioner in the mid-eighties, and it was not at all uncommon to see dummed-up, government-looking documents sent to seniors with all manner of insurance solicitations that have since been largely regulated out. But there is always a new wrinkle, and so I am very pleased that you have cracked down in this way.

There are some—as long as we are talking about the mailings, some issues I would like to explore with you. The cost of the mailings is \$32.5 million, and the mailing will be a letter saying, We are about to send you a check.

It reminds me of the—some of the correspondence I get from my health insurance, This is not a bill. My inclination, well, if it is not a bill, why are you sending it to me?

I think there will be a bit of that relative to the expense we put behind this mailing. I think perhaps the mailing will have the greatest benefit in bringing disappointing news to those not getting the refund that they are now expecting. Fifty-one million Americans, something like 44 percent of the constituents I represent are not going to get their full refund in light of the—having not had the taxable income, excluding the Federal Insurance Contribution Act tax (FICA), of course, which they pay.

What has been the—how is the mailing addressing this—informing people they are not going to get the refund they have expectation of receiving?

Mr. WENZEL. Yes. There was a separate letter that we sent to those individuals that notified them that they would not get the refund this year. And we go on to explain in our letter—again, we were able to do that in just one page in terms of being concise and brief—and the second paragraph explains that individuals who had taxable income and paid Federal income taxes in the year 2000 and who could not be claimed as a dependent on someone else's are eligible.

And then it says—we go on into the third paragraph, and this is very important—however, if you pay income taxes in the year 2001 and are otherwise eligible, you will be able to claim a credit on your 2001 tax return—and instructions on how to determine if you qualify for the credit will be provided in the 2001 Federal income tax return. In addition, you may be eligible for tax relief in future years as Federal taxes are scheduled to be reduced further.

So what this is saying to them is, while they may not be eligible right now for the reasons cited in the second paragraph, their situation may have changed in the current year, and as they file their tax return for tax year 2001, they would possibly be eligible.

Mr. POMEROY. Are these personalized letters or is this one generic letter everyone gets?

Mr. WENZEL. It is the same letter that goes to everyone, yes.

Mr. POMEROY. Oh, I am afraid that might still be quite confusing. In fact, even your description of it may fall a little short of actually letting people know you are not going to get the refund that has been generally promised to all taxpayers, and here is why.

I believe failure to provide information just that clearly is going to result in Members of Congress and others, most particularly the IRS, getting an awful lot of phone calls.

Mr. WENZEL. Yes, Congressman. And again, we offer our phone number in terms of a further explanation. If this was not clear, we again try to refer the individuals to our Web site that has really complete information and—

Mr. POMEROY. If someone gets that letter and is well aware that out of their paycheck comes—you know, it is a significant tax withholding, FICA tax deduction—do you think they will be able to understand that, well, the FICA tax deduction doesn't get you a refund; it has got to be income tax, not FICA tax, that will get you the refund? Is that going to be clear from that text?

Mr. WENZEL. We hope so. I mean, we have tested this and tried it on a number of individuals, and we felt that this would help adequately explain how you are eligible. In this case, why you are not eligible this year, and then going on to say there may be the opportunity to be eligible in the current—

Mr. POMEROY. But the same letter says you are getting a refund unless you are not getting the refund. Is that kind of how—how does the first paragraph read in this thing?

Mr. WENZEL. The second paragraph says, in general—

Mr. POMEROY. No. The first paragraph.

Mr. WENZEL. "We are pleased to inform you that the U.S. Congress has passed on the"—

Mr. POMEROY. May I see that letter?

Mr. WENZEL. Sure.

Chairman HOUGHTON. Here.

Mr. POMEROY. Thank you, Mr. Chairman.

Mr. JOHNSON. Can we all get a copy?

Mr. POMEROY. So here is the letter:

"We are pleased to inform you that the U.S. Government passed, President George W. Bush signed into law, the Economic Growth and Tax Reconciliation Act of 2001, which provides long-term tax relief for all Americans who pay income taxes." Individuals with taxable income who cannot be claimed as a dependent are eligible to receive immediate tax relief in the form of a check.

You know, as I look at this, having—I have done dozens of senior citizen insurance forms, going over in very detailed and painstaking ways what to understand from the materials they receive and whatnot. I believe that the 51 million Americans not receiving a refund will not find it clear from this. I think that we might expect some significant volume of calls.

I wish, in fact, that there had been two mailings, a mailing to those getting full refunds saying, Expect the refund—again, whether or not that is a sound expenditure; the judgment has been made that it is—but a specific mailing to those not receiving it, laying out very clearly why not. I am not quite sure this gets it done.

The final point I would ask is your comment on page 2 of the testimony that approximately 500,000 have been mailed incorrect statements. What was that?

Mr. WENZEL. When we programmed the change, the law, we thought it was programmed correctly. We have a quality assurance function in our Chief of Information office, part of the Internal Rev-

enue Service, and we kept testing the program that was provided as a result of this law. And as part of that programming, the quality assurance part, I should say, we share 20 scenarios, case scenarios, if you will, with our Treasury Inspector General for—Tax Administration.

In their review and in our ongoing review of the program that was conducted in order to administer these advance payments, there was a mistake that was made, a human mistake by one of our programmers, that resulted in an incorrect calculation that would have resulted in a larger refund going to approximately 500,000 taxpayers than what they were actually entitled to. So we caught it before the checks have been issued, in the sense that—

Mr. POMEROY. The good news is, you don't have to go shake people down for their money back, but you do have a significant disappointment factor.

Mr. WENZEL. Once we caught that, we made the correction in terms of the programming, and as I said, the correct amount will be going out on the checks here shortly. But we also plan on sending a letter to the approximately 500,000 taxpayers, letting them know what the correct amount is.

Mr. POMEROY. You know, I stand corrected. You did send out two letters, apparently.

Mr. WENZEL. That is correct.

Mr. POMEROY. One to those receiving—this is very straightforward. As part of the immediate tax relief, you will be receiving a check in the amount of X during the week of X. I get that.

I wish there had been similar clarity to this letter: You are not receiving a refund; you didn't have enough taxable income; FICA tax didn't count for purposes of this law. I think that would have much more clear than this. This is virtually incomprehensible; this actually never does say, You are not getting a check, does it?

Mr. WENZEL. Well, I would hope that one could conclude from in that they are not entitled to a payment—

Mr. POMEROY. Oh, I see the second part of that, according to information, you either did not pay and therefore do not have taxable income or—I am sorry. It does say that.

It says it most directly, Mr. Chairman, although late in the second paragraph.

Well, I think we are all going to be getting quite a few calls and further clarification, a little more straightforward denial letter might have been helpful in that regard. I don't fault the Service in any way. I think this represents very prompt turnaround from an assignment that was abruptly given to you, and so I commend you for your best efforts and, in particular, finding the fraudulent abuse of this.

I thank you and yield back.

Mr. WENZEL. Thank you for that comment, Congressman.

Chairman HOUGHTON. Yeah. I have got—maybe others have got a question; I have got a specific question.

I mean, we have got this issue, and it seems to me we are right on top of it. The error was made, they corrected it, the check will go out. There will always be some questions on it.

But the broader issue is that this goes on all the time. I mean, you see them in Social Security. You see them in Medicare. I mean,

I can remember being on the Grace Commission in 1982, and the continuation of that, and some of the economies that were going to happen, and it would affect individuals. It gets everybody all excited, and we are sending money in order to get the inside information. It is a blight on our society.

Do you see this thing proliferating? Is there anything we can do?

Mr. MAXWELL. Well, there are two things. One, Congress did do something last year with that legislation, and what we have seen—and I mentioned this at a hearing about 2 weeks ago on cross-border fraud—what we have seen since that legislation in the area of deceptive mails, where I reported a 26 percent decline in these types of mailing complaints to our fraud complaint system.

We have since actually looked at it in more depth, and we found out that our calculations were conservative, that if we include all the mailings that we associate with deceptive mailings, it was closer to a 37-percent decline since the enactment of the legislation. That is a big step.

The problem is, those are the people who complain, and that is good, and I am pleased to see that it is declining and that the legislation, that we can do things like we are doing here quickly, swiftly, with certainty.

What concerns me is what you are alluding to, is what happens to the folks who don't complain, there are a lot of them. They are either too embarrassed to complain, or they have lost their money; and many times it is people with very little money to lose, and they go for something like this. That is where the prevention effort comes in. And what Congressman Johnson said about the Web site, I think that certainly should be explored to every extent.

One thing I probably could add, in addition to Know Fraud, there is an ongoing Know Fraud Campaign. Next week and the week after, we are partnering with some local agencies in the cities of Phoenix and Atlanta to do what we are calling "town hall meetings." We are bringing in the U.S. attorney and the attorney general, and we are reaching out—it is an outreach—to the public, and we are going to illustrate in those areas what types of fraud schemes are most prevalent, introduce the agencies that deal with those issues, where they go to report those types of crimes, what to look for.

In fact, I think this would be a good case to throw up as an example. Here is something everybody expects. It is a good thing that someone is trying to make look bad, and these are the things that you need to be educated about. Because if you can teach somebody about fraud and what to look for, you can prevent it, where if somebody gets robbed, that is a little bit more difficult to stop.

But if you could educate people to be careful what they do with their money, then it is a lot better.

Chairman HOUGHTON. Okay. Thank you.

Do you have any questions? Do you have anything?

Well, listen, this is an ongoing problem. It is wonderful to know that people like you exist and are on top of it.

We want to help you in any way we possibly can, and we might have another hearing like this. So thank you so much.

[Whereupon, at 2:42 p.m., the hearing was adjourned.]

[Submission for the record follows:]

Statement of the Hon. Betty D. Montgomery, Ohio Attorney General

Most of us are familiar with various junk mail offers. We have all received the slick mailers with eye-grabbing headlines enticing us to read about an “exciting” or “exclusive” offer. While most consumers disregard these solicitations, many fall victim to these potentially deceptive business practices. They include personalized messages and purported official documents that lead consumers to believe that they are recipients of official government documents. It is only when you read the fine print that you discover what is really being offered and who is actually behind the solicitation.

A prime example is a current mass mailing being distributed to consumers throughout the United States. Two weeks ago my office was contacted by a member of the press who had talked to a constituent who received an official-looking postcard from “Revenue Resource Center” of Boca Raton, Florida. This company promised to estimate the consumer’s Internal Revenue Service refund and “assure proper delivery,” all for \$12.95 (\$14.95 for “rush service”). This particular consumer was wise to question what appears to be a mail scam.

This official looking postcard titled “2001 Form 16–B, Taxpayer Refund Information Card,” asks for consumers to fill out a brief “information worksheet,” which asks for marital status, what government benefits the consumer receives, if children are living at home, whether taxes are withheld from paycheck, and if the consumer filed tax return last year. There is one line on the card that states the company is not a division of the Internal Revenue Service or the Federal Government. However, on the other side of the postcard, it states that it is a “non-partisan bureaucratic agency.” This statement implies that they are a quasi-federal agency. Further, the post card gives the impression that they have access to consumer tax records.

While state consumer protection laws vary from state-to-state, individual chief law enforcement officers will need to determine whether these business practices violate state consumer protection laws. Based upon our review of the postcard, it appears that it violates our consumer laws. As the Consumer Protection Chairperson of the National Association of Attorneys General we are constantly trying to educate and identify initiatives and safeguards to further protect consumers from possible abusive and deceptive practices, through multi-state working group activities and enforcement actions. The consumer protection-working group is currently examining such business practices. However, due to confidentiality concerns we cannot comment on our specific ongoing investigations.

All state Attorneys General have the obligation to help educate consumers from possible scams. In this case, our office has taken a number of steps to educate our constituents by issuing helpful tips through the media. Among the tips we suggest:

- You do not have to do anything to receive the income tax rebate from the federal government;
 - You do not have to pay anything to receive information about your tax rebate;
- and
- There is no guarantee that the rebate information that this private company promises is reliable.

We are telling consumers to wait for the letter that will soon be mailed by the Internal Revenue Service that outlines rebate information. We also warn consumers to be wary about giving out personal information, such as a bank account, credit card number, or social security number. That information can be used to make unwanted charges on your credit card. The information can also be used to steal your identity.

Because these postcards are being mailed through the postal system, it should be noted that the federal government has jurisdiction over postal issues. Specifically the United States Postal Service has the authority to enforce the False Claims Act under Title 39 USC §3005. They also have the ability to stop the mail and get a temporary restraining order under Title 39 USC §3007, which were strengthened under the federal sweepstakes law recently enacted by Congress.

State Attorneys General are not only here to enforce the law, we are here to protect consumers. Often vulnerable consumers, such as the elderly, trust what they receive through the mail. Because some are trusting and not sophisticated enough to read the fine print (or may not be able, literally, to read the fine print if it is too small), these companies have been successful at using the “official” name of good government for financial gain.

We appreciate the opportunity to submit these comments and look forward to working with your committee in developing an effective and comprehensive approach to protecting consumers from deceptive mail solicitations.

