



MEMORANDUM

TO: Reporters and Editors
RE: Private Debt Collection
DA: Thursday, March 5, 2009

Early this evening, Senator Chuck Grassley had a conversation with Secretary of the Treasury Timothy Geithner about the private debt collection program administered at the IRS. Geithner informed Grassley that he would be eliminating the private debt collection program. Grassley made the following comment.

“The administration has decided that after spending nearly a trillion dollars in the stimulus bill to keep people working across the country, they are going to cut a program that provides jobs to hundreds of people during the middle of a recession, including 60 in Iowa. It’s hard to believe that after worrying so much about keeping people employed, the administration has chosen this route. I told the Secretary that they could hire all the people they wanted for the NTEU, but the IRS was never going to get the money that was owed to the federal treasury because IRS policy is to not go after debts under a certain amount.”

Grassley argues that the collection program should be given a chance to work and considered on its merits, not out of union-driven political pressure. His earlier materials follow here.

For Immediate Release
Wednesday, March 4, 2009

Grassley Fights to Give Tax Debt Collection Program a Chance to Work,
Faces Partisan, Union-driven Resistance to Logic

WASHINGTON – Sen. Chuck Grassley of Iowa is urging the Senate and the Treasury Department and Internal Revenue Service to save a new program to collect taxes that are owed and not in dispute. Grassley said the program – known as the private debt collection program – should have a chance to work, especially since the IRS is

neither willing nor equipped to collect such tax debt. However, despite his efforts, the Senate's Democratic leadership is strong-arming debate of an omnibus spending bill and allowing zero amendments to move forward.

"I filed an amendment to save this program, but the Senate Democratic leadership isn't going to allow it to pass. Not a single amendment has," Grassley said. "Even though this program has bipartisan support, I couldn't even get sign-off on a simple colloquy with key Democrats – a statement among senators on the floor – that would have clarified that the IRS could keep the program going even with the 2009 prohibition on using appropriated funds. So the employees of the contractor in Waterloo and taxpayers everywhere don't have a chance with the way this bill is being processed by the majority."

Grassley has outlined the reasons for giving the program a chance in a variety of settings. He's pointed out the IRS' own documentation of workers' hours spent on union activities rather than IRS tasks such as tax collection and the IRS' unwillingness to take on the debt targeted via this program. His correspondence over union activities is attached.

Grassley today wrote to the Treasury Department and IRS, seeking information to counteract claims about the program from the Treasury/IRS employees' union. Earlier this week, Grassley filed an amendment to the 2009 omnibus appropriations bill before the full Senate. His amendment would strike a provision that essentially kills the private debt collection program. He and Sen. Max Baucus, chairman of the Committee on Finance, reminded appropriators that tax collection is the Finance Committee's, not the Appropriation Committee's, jurisdiction. Following are: (1) the text of Grassley's letter today to the Treasury Department and IRS; (2) the text of his floor speech describing the amendment; and (3) the text of a letter from Grassley and Sens. Chuck Schumer and Tom Harkin in support of the program. Grassley is ranking member and former chairman of the Committee on Finance, with jurisdiction over taxes.

March 6, 2009

The Honorable Timothy F. Geithner
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Avenue
Washington, DC 20220

The Honorable Douglas H. Shulman
Commissioner of Internal Revenue
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Secretary Geithner and Commissioner Shulman:

I am writing to seek clarification of issues raised by the National Treasury Employees Union (“NTEU”) regarding the Internal Revenue Service’s private debt collection (“PDC”) program in its letter to members of the Senate dated March 3, 2009. I have included a copy of the letter for your convenience.

The NTEU asserts that taxpayers referred to private collection agencies (“PCA”) are subject to an “unacceptable double standard”. The NTEU also asserts that IRS employees can do tax collection more effectively than PCAs. In comparing work done by IRS employees to that of PCAs, the NTEU continues to cite the National Taxpayer Advocate’s (“NTA”) non-scientific, unobjective, flawed analysis to claim that IRS Automated Collection System employees do similar work with a higher rate of return. The NTEU also claims that PCAs have only collected half of what they are projected to bring in but receive higher commissions than PCAs hired by other government agencies.

Yet, the NTEU doesn’t acknowledge that its own lobbying restricts the success of the PCAs, that the IRS collection employees do not in fact do the same work as PCAs, or that the PCAs have higher customer satisfaction rating than the IRS employees. The NTEU also conveniently fails to mention that IRS employees spend more time on union activities than any other federal agency and that cutting back on that time alone could probably increase IRS revenue collections.

In the letter Senators Harkin, Schumer and I sent to you last week, we specifically asked you to describe how the IRS’s collection process and procedure differs from the process and procedure used by PCAs in collecting IRS debts. The answer to this question alone would seem to refute the NTEU’s basic arguments. Because I believe the NTEU is engaged in a serious disinformation campaign that is being touted by opponents of the program, including the NTA and members of Congress, in addition to answering the questions raised in last week’s joint letter, I ask for detailed responses to the following:

Describe the standards, including privacy safeguards and additional security costs, which contractors must meet to participate in the PDC program.
Provide an estimate of the costs incurred by the PCAs to adhere to these standards
Describe the difference in standards and costs to PCAs in contracting with the IRS versus other federal agencies.

Explain why the IRS has not expanded the program to include other PCAs and indicate whether the standards for participation deter other participants.

Explain why PCAs are not provided with the same authority as IRS employees to provide Offers in Compromise or otherwise negotiate or settle tax debts, and impose liens and levies. Provide copies of all memorandum and other correspondence with the Office of Chief Counsel, including e-mails and documentation of phone conferences and meetings, that support this decision.

Provide a breakdown of the cases referred to PCAs by income and provide the language that PCAs must use to inform taxpayers of their rights.

The latest monthly report on the PDC program provided to my staff indicates that PCA employees have scored over 99% ratings in the areas of Regulatory, Procedural, and Customer Accuracy, Timeliness, and Professionalism. I understand that similar ratings for IRS collection

employees are less than 65%. Does the IRS use the same quality measures for rating IRS collection employees? If yes, provide IRS percentages for all of the measures. If no, describe how IRS employees are rated.

A primary reason that PCAs have collected only half of what they have been assigned is because they are being assigned cases so old that even the IRS cannot locate the taxpayer.

Describe how data IRS provides to PCAs about taxpayers is different from the data Department of Education or FMS provides to their PCAs.

Explain why PCAs are not permitted to use their own proprietary databases to locate taxpayers. Provide copies of all communications with Chief Counsel on this subject.

Explain why, when a PCA returns a case to the IRS, a case is not removed from the PCA's liquidity calculation.

Provide a breakdown of the expenses incurred to date and describe whether they are start-up expenses or recurring expenses.

Provide a breakdown of recurring expenses and explain why the IRS cannot reduce those expenses so that IRS can cover the costs of the administering the program with the earnings it retains from PCA collections.

In last week's letter, we asked you to explain how each of the 31 exclusion criteria, which prohibit the PCAs from working on certain types of cases, was determined. Please also provide the following information:

Explain whether PCAs have any similar restrictions in contracting with other federal agencies. Provide copies of all written correspondence, including e-mails, with the Office of Chief Counsel, the NTEU and the NTA regarding this topic.

Compare and contrast the IRS' collection process and procedure to that of for-profit businesses. Discuss whether the age of IRS' receivables and collection rate is consistent with industry standards.

Explain why IRS does not make outbound phone calls as soon as a debt is classified as delinquent.

Both the GAO and TIGTA have reported on the significant drop in the level of service provided on the IRS' toll-free help lines last year because of stimulus payment questions. Explain why the PCAs were not used to complete the work of the IRS collection personnel that were assigned to answer stimulus payment phone calls during the 2008 filing season.

Given that the IRS' delinquent tax debt inventory is growing every year, explain why the PDC program is not being considered as part of the IRS' overall collection strategy, but rather appears to be a stand alone program.

Is it expected that the American Recovery and Reinvestment Act of 2009 will have the same impact on IRS telephone customer service as the 2008 stimulus payments?
Will IRS collection staff again be reassigned to assist with phone service during filing season?
Will PCAs be given additional work to prevent revenue loss resulting from such reassignment? If not, explain why.

The Washington Post article, "IRS Tries Walking in Our Shoes," dated February 15, 2009, reports Commissioner Shulman as saying that the IRS will be working to provide leniency for those taxpayers experiencing economic hardship. The article also quotes him as saying that these taxpayers are just getting a break, not a free ride. This is encouraging, especially in these troubling times.

However, given that IRS hasn't been keeping track of delinquent taxpayers for decades, how does the IRS expect to track those who are just getting a break?

Is it expected that PCAs will assist IRS in keeping track of these taxpayers? If no, explain why.

In May 2007, Acting IRS Commissioner Kevin Brown testified that IRS would not be pursuing the debts that have been assigned to the PCAs, even if additional resources were provided to the IRS. Indicate whether this is still the IRS's position. If yes, explain, including why the IRS believes that all tax debt should not be treated equally for collection purposes.

Provide the number of employees working on the PDC program that are members of the NTEU and explain how IRS is managing the conflicts of interest arising from employees working on the program who also oppose it.

I understand that the IRS is still negotiating the NTEU contract. Please update the data provided by former Commissioner Everson in his letter to me dated April 11, 2007. I have attached a copy for you review.

The NTA continues to speak about the cost effectiveness of the IRS private debt collection. Even though her prior analysis, which was not repeated in her most recent report, was flawed because it was not objective or scientific, she continues to be quoted by opponents of the program. I appreciate that the IRS is conducting its own cost effectiveness study and that it has enlisted the aid of an independent contractor to do this. However, I am troubled that the NTA reported on data from the IRS study in her most recent annual report when neither I nor my staff was officially briefed by the IRS on its study. I am also aware that she has been discussing the report with the press as I received requests for comment on the study back in January. In order to better understand the NTA's involvement in this study, please answer the following.

Describe the NTAs involvement in the study, including whether any NTEU members from her office were allowed to participate in shaping or otherwise discussing the study.

Did the NTA seek permission or authorization to include data from the IRS' PDC study in the NTA's annual report? If no, did the IRS object to the NTA's discussion in her annual report? If yes, why did the IRS grant such permission?

Describe in detail the review and approval process for this study, including the “chain of command” and the titles of those in that chain of command.

Did the NTA seek permission or authorization to speak to the media about the IRS’ PDC study? If yes, why did IRS permit the NTA to discuss this publicly but fail to provide the study to my staff? If no, what, if any, disciplinary action will be taken against the NTA?

As stated in the letter from last week, there are almost 200 jobs in small towns in both Iowa and New York that will be lost if the IRS PDC program is terminated. Given the current economic crisis, such a job loss should not be allowed to happen without good reason, particularly since such job loss might cause job loss in other states. Terminating the IRS PDC program prematurely, as happened in 1996, in the hopes that IRS will increase its collection staff is not a good enough reason. It would seem that IRS should dedicate additional resources to those tasks which cannot be conducted by private contractors, such as examinations.

Finally, I understand that the provision in the Omnibus appropriations bill currently being debated would prohibit IRS from using 2009 appropriations to administer the program. However, I hope that this alone will not cause you to terminate the program. The revenues retained by the IRS on the amounts collected by the PCAs should be sufficient to cover the costs of the program. If they are not, please explain why and explain why costs of administration cannot be reduced through reductions of personnel or travel expenses.

I understand in the next few days, if not today, that you will be making a decision on whether to continue to the program. I would appreciate a response to these questions as well as the questions posed last week before the decision is publicly announced. I would encourage you to meet with my staff before providing the responses so that you can be sure to answer all questions thoroughly.

Sincerely,

Chuck Grassley

Ranking Member

cc: The Honorable Max Baucus
The Honorable Charles E. Schumer
The Honorable Tom Harkin
The Honorable John Lewis
The Honorable Dave Camp

Floor Speech of Sen. Chuck Grassley
Private Debt Collection Amendment
2009 Omnibus Appropriations
Wednesday, March 4, 2009

I am here to discuss amendment number 628 to the omnibus appropriations bill that I filed this week. The bill before us today contains a provision that would essentially kill the IRS private debt collection program which the Senate, working through the Senate Finance Committee, only authorized in 2004, and the IRS only implemented in the fall of 2006. This program, which has never been fully operational in its brief two year history, allows the IRS to use private collection agencies to collect tax money owed to the government. The program has many critics and once again they are seeking to destroy the program before we have a chance to gauge how effective the program really is.

Before I discuss the merits of the program, I want to note that an appropriations bill is not the proper vehicle to nullify tax policy. The private debt collection program was created in a tax bill within the jurisdiction of the Finance Committee, and further legislation affecting the program should be done through the Finance Committee. Whether or not you agree with the program, I think everyone could agree on the importance of the committee structure we use here in the Senate.

The IRS private debt collection program facilitates the collection of tax debts that the IRS would not otherwise pursue. These liabilities amount to billions of dollars a year.

A GAO report issued in June of 2008 reported the unpaid tax debt as of fiscal year 2007 to be about \$290 billion, of which almost \$185 billion was classified as non-potentially collectible inventory and \$25.5 billion was deemed potentially collectible, but not in active collection status. The private debt collection agencies are only permitted to pursue debts that taxpayers have conceded they owe.

Opposition to this program is surprising since the IRS program is intended to run like similar programs at other agencies, such as the Department of Education, which uses private collection agencies to pursue delinquent student loans. The Financial Management Service, which is ironically also a part of the Treasury Department, uses them to collect small business loans.

The only reason I can think of that private debt collection is so controversial at the IRS is simply the opposition to the program from the National Treasury Employees Union. The NTEU is comprised primarily of IRS employees, and according to NTEU's website, is the largest federal sector union in the country. The other government agencies that use private debt collectors do not have as powerful a union fighting for more government jobs. Yet, this program does not threaten the jobs of revenue agents already working for the IRS. The tax debts that the private collection agencies are targeting are debts the IRS is not pursuing, and likely would not pursue even if additional revenue agents were hired.

In May 2007, Acting Commissioner Kevin Brown, when testifying before a subcommittee of the House Ways and Means Committee, confirmed that the IRS would not otherwise pursue these debts even if the IRS were given additional resources. So the bottom line is: there are no IRS jobs on the line. Rather, the NTEU believes that the IRS should be hiring more union employees to do collections work.

In contrast, I believe that if the IRS is going to hire more workers it should be agents to do more exams – work that private contractors cannot do. Former IRS Commissioner Mark Everson stated in a letter to me on April 11, 2007, that a full-time revenue agent auditing individual tax returns historically brings in nearly \$700,000 annually.

I ask unanimous consent to enter Commission Everson's letter into the record as well as well as a follow-up letter I wrote to Treasury Secretary Paulson on this issue. For me, this proves that the IRS would be better off hiring more examination agents than debt collectors.

In addition to the NTEU's failure to discuss the success of private debt collection programs at other federal agencies, the NTEU also conveniently fails to mention that the private collection agencies hired by the IRS have consistently scored customer satisfaction ratings above 95% while IRS collections employees appear to be scoring at less than 65%.

The NTEU also fails to mention the amount of employee time devoted to union activities is proportionately higher at the IRS than it is in comparison to other federal departments and agencies. Commissioner Everson testified to this at the Senate Finance Committee tax gap hearing held on April 18, 2007. Just think of the additional revenues IRS could be collecting if union employees were actually doing the jobs they were paid to do instead of spending taxpayer dollars to lobby Congress on provisions they don't like.

Since the Omnibus provision prohibiting the IRS from using 2009 appropriations to fund the program office may actually kill the program, I have filed an amendment to strike this provision. I would not support a government program that is unsuccessful, and this private debt collection program is no different.

However, we do not have enough information to know whether or not this program is effective, and, given the success of such programs at other agencies, I believe it can be successful at the IRS. Last week I, along with Senator Harkin and Senator Schumer, sent a letter to Treasury Secretary Geithner and IRS Commissioner Shulman asking for more information so we can actually make an informed decision on the effectiveness of the private debt collection program.

The letter asks for, among other things, additional information to measure the cost effectiveness of the program, information to gauge the results of the collection agencies, and more information on the use of collection agencies by other government agencies.

So that all of my colleagues are able to read the letter I ask unanimous consent that it be printed in the record.

We should have a chance to obtain and review this information before killing it, and the roughly 200 jobs in Iowa and New York dependent on this program. I was a supporter of this program before any contracts were awarded, and as I've said, I will not support it if the program proves ineffective, but let's give the program a chance to work.

Given the propensity to spend the government seems to be afflicted with, there is going to be a hunger for new sources of revenue which is going to be controversial. What should not be controversial is that we need to collect taxes currently owed in the most effective and most efficient way possible. Since the private debt collection program will help accomplish that, I urge support for my amendment.

For Immediate Release

Friday, Feb. 27, 2009

Grassley, Schumer, Harkin Urge IRS to Give Debt Collection Program a Chance to Work

WASHINGTON – Sens. Chuck Grassley, Chuck Schumer, and Tom Harkin have urged the Treasury Department and Internal Revenue Service to keep the tax collection program known as the private debt collection program.

In a letter to the agency leaders, the senators said the program criticisms are unfounded, the program is still very new and should be given a full chance to work, and that efficiencies will result from the use of qualified private contractors who are set up to handle the work of calling taxpayers who have acknowledged that they owe taxes but haven't paid.

Grassley is ranking member and Schumer is a member of the Committee on Finance, with jurisdiction over tax policy and the IRS.

The text of the senators' letter follows here.

February 26, 2009

The Honorable Timothy F. Geithner
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Avenue
Washington, DC 20220

The Honorable Douglas H. Shulman
Commissioner of Internal Revenue
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Secretary Geithner and Commissioner Shulman:

We are writing regarding the private debt collection program (PDC) that is being implemented by the Internal Revenue Service (IRS) and has been in place since 2006.

We are aware that many critics believe that the program does not operate effectively, and they lead an annual effort to strip the IRS of all authority to implement it. But we do not believe that the necessary data has been collected and disseminated that would allow an informed decision to be made about the program's long-term effectiveness.

Make no mistake: If the program is genuinely unsuccessful, we would be among the first to concur that it should be terminated. However, we remain very concerned that IRS will terminate the PDC program before a complete and thorough accounting of the program is conducted. For example, while some are critical of the effectiveness and efficiency of the PDC program, we have yet to see solid, reliable numbers. Criticism of the program's return on investment do not account for its start-up or investment costs, and ignore the fact that the program has not been fully operational for any of its two years.

We appreciate that the IRS has decided to use an independent third party to study the effectiveness of the program, and its report may be issued as early as next week. But it is not clear that the new study will discuss ways to increase the efficiency and effectiveness of the PDC program or explain why similar programs at other federal agencies appear to be successful. For example, the Department of Education uses PCAs to collect student loan debt, and the Department of Treasury Financial Management Service uses them to collect small business loans, farm loans, and other similar debt owed to the federal government, and these programs appear to work well with little controversy.

Given the amount of uncollected tax debt, a program that was allowed to operate at full capacity would have the potential to be successful, yet the current program has only operated in fits and starts. In fact, during the past fifteen years, the Government Accountability Office (GAO) and the Treasury Inspector General for Tax Administration (TIGTA) have issued numerous reports discussing the IRS's problems in collecting delinquent debt. A list of these reports is attached. Some of the key findings include:

In its May 1993 report, *New Delinquent Tax Collection Methods for IRS*, the GAO highlighted the complexity of the IRS's collection process. GAO presented a number of options to improve the IRS's delinquent debt process, including establishing early telephone contact with debtors and utilizing private collection agencies. So there is a long track record indicating that a well-run PDC program could be successful.

In its June 2007 report, *Tax Debt Collection: IRS Has a Complex Process to Attempt to Collect Billions of Dollars in Unpaid Taxes*, the GAO description of the IRS's collection process indicates that IRS has not experienced significant improvement in its collection function since 1993. The report also states that the total unpaid tax debt as of fiscal year 2007 was \$290.1 billion, of which \$184.8 billion was classified as non-potentially collectible inventory and \$25.5 billion was deemed potentially collectible, but not in active collection status. This would seem to be further justification for a viable PDC program.

In its December 2008 report, *Tax Administration: IRS's 2008 Filing Season Generally Successful Despite Challenges, Although IRS Could Expand Enforcement During Returns*

Processing, the GAO notes that, because collections staff was reassigned to answer telephone calls regarding stimulus payments, the IRS reported \$655 million in forgone revenue through August 2008 alone, which means that the number for the whole calendar year will likely be greater. If the IRS viewed the PDC program as part of its larger collection program, rather than a stand-alone program, PCAs may have been able to complete the work of the collections staff that had been temporarily reassigned.

It is important for critics of the program to recognize that the IRS's PDC program is designed to go after tax debts that have been conceded by taxpayers, but not paid. What's more, even if the IRS enforcement budget were significantly increased, the accounts turned over to PDC are those that would still likely be ignored by IRS collection agents. In his May 2007 testimony before the Committee on Ways and Means, Subcommittee on Oversight, Acting Commissioner Kevin Brown, confirmed that IRS would not otherwise pursue these debts even if IRS were given additional resources.

We remain cautiously optimistic that a PDC program could be successful in helping to close the tax gap, but only if it is allowed to operate at full capacity. Only after that point could a determination be made about whether the program is meeting its objectives. We are hopeful that the report being prepared will provide answers to the following questions. If not, we hope that you will take the time to let us know the following key information before the IRS makes any final decision about the PDC program:

The primary argument for terminating the IRS PDC program is that it is not cost effective. In order to better understand the program's revenues and costs, we would like a monthly accounting of all funds expended on the program since its inception, including a breakdown of all costs for IRS personnel involved in administering the program (salary levels, positions descriptions, etc.), as well as costs associated with technology and travel.

We would also like to know the number of cases placed with the private agencies since the program began, including the number of cases for which the amount was collected in full, the number of resulting installment agreements, and the number of cases recalled and reasons for recall. We would also like an accounting of the commissions earned by the PCAs since the program started.

Some taxpayers choose to ignore the IRS's many letters and respond to the IRS only after it notifies them that their cases will be referred to a PCA. In these cases, where the IRS benefits from the use of the PCA's names, we would like to know why the PCAs are not compensated when those taxpayers settle those debts.

We would also like for you to describe how IRS's collection process and procedure differs from the process and procedure used by PCAs in collecting IRS debts, including the IRS's ability to make outbound phone calls, negotiate or settle tax debts, and impose liens and levies.

Another criticism of the program is that the IRS has run out of cases that can be assigned to the current PCAs, which is why other PCAs have not been added. However, the

exclusion list, which was not determined by statute but by the IRS, appears fairly extensive. In addition, as noted above, the GAO's June 2008 report indicates that, as of fiscal year 2007, there was at least \$25.5 of potentially collectible inventory that IRS was not actively pursuing. We would like to know how each of the exclusion criteria was determined.

Tables 5, 6 and 7 of the GAO's June 2008 provide a breakdown of the total delinquent debt for fiscal years 2002 through 2007. Please update these tables to add numbers for fiscal year 2008 and provide a breakdown of this amount by the exclusion criteria. We would also like to know why all potentially collectible inventory is not in active collection status and cannot be assigned to PCAs.

We would also like to know whether Treasury or any other agency has studied the cost effectiveness of the use of PCAs by Treasury or other federal agencies. If such studies are available, we would like to see them.

Finally, you may be aware that there are almost 200 jobs in both Iowa and New York that will be lost if the IRS PDC program is terminated prematurely. Given the current economic crisis, such job losses should not be forced to occur before a full accounting of the program's success is made available and/or the program is allowed to operate as originally intended. The recently enacted Economic Recovery Act, which will further strain IRS resources, is an additional reason why the PCAs should be allowed to operate until the success or failure of the program can be definitively determined.

If you have any questions regarding the above, please do not hesitate to contact our staff. We also ask that you brief our staff on the forthcoming study before the study is finalized and made public.

Sincerely,

Chuck Grassley
United States Senator

Charles E. Schumer
United States Senator

Tom Harkin
United States Senator

Staff contacts:

Jill Gerber, Committee on Finance, Ranking Member Sen. Chuck Grassley, 202/224-6522

Kate Cyrul, The Office of Sen. Tom Harkin, 202/224-3254

Brian Fallon, The Office of Sen. Chuck Schumer, 202/224-7433



Collection & Private
Debt Reports2.xls