



Sen. Chuck Grassley
Floor Statement Regarding Role of IRS in Health Reform
Delivered Wednesday, Nov. 18, 2009

I rise today to join my friend from Kansas in sounding the alarm about the IRS's role in Americans' health care choices.

The various health care bills being considered before Congress would task the IRS with administering several new and very controversial provisions including the individual mandate, employer free-rider penalty, the premium subsidy for low income individuals, the small business tax credits, working with exchanges to verify income information and figuring out how to calculate and collect several new "fees" which are in fact excise taxes.

Senator Roberts said during debate in the Finance Committee that some people joke that CMS stands for "It's a Mess". Well, the same could be said of the IRS. As many of us know all too well, the tax gap is a serious issue. The hundreds of billions of dollars owed that the IRS isn't collecting suggest that the IRS isn't effective at executing its primary mission – the enforcement of the revenue laws. The IRS is just now starting to increase its enforcement efforts which had declined significantly after the restructuring a decade ago. But, just like many other federal agencies, it is facing a human resources crisis – more than 50% of its workforce is expected to retire in the near future. So it doesn't have the resources it needs to do its first job never mind a whole new one like administering health reform.

One independent report after another highlights IRS' enforcement problems. Senator Roberts mentioned the recent reports on the Making Work Pay Credit, Homebuyer Tax Credit and the IRS's financial statements. In addition to those, we have problems with the Earned Income Tax Credit and the Health Coverage Tax Credit.

In February, the Treasury Inspector General for Tax Administration (TIGTA) issued a report on fraud in Earned Income Tax Credit. Then today, the Administration reports that waste of taxpayer dollars from improper payments has increased from \$72 billion in 2008 to \$98 billion in 2009. And, over \$12 BILLION – almost 12% - of the \$98 BILLION in improper payments was because of the Earned Income Tax Credit.

In another TIGTA report from earlier this month on the Health Coverage Tax Credit, TIGTA reviewed a valid sample of individuals who claimed this credit on their 2006 Federal tax returns. TIGTA found that 72 percent did not have the required documentation attached. In addition, TIGTA states that IRS does not effectively identify and prevent individuals from erroneously claiming the health credit on their Federal tax return. TIGTA identified over twelve hundred individuals who appeared to have wrongly claimed \$1.8 million of these credits on their Federal tax returns. This report is particularly relevant since the premium subsidy in the Senate Finance Committee bill is modeled after this credit.

The Earned Income Tax Credit, Health Coverage Tax Credit, and Making Work Pay Credit are all examples of social welfare programs being administered by the IRS. And this despite the fact that we have a whole separate agency – the Department of Health & Human Services – that is supposed to be concerned with social welfare.

In a recent interview with Tax Analysts about current health reform proposals, a former IRS assistant commissioner had this to say about the IRS's role in health reform. "These kinds of programs require social welfare expertise. IRS agents are not recruited or trained to do that well. The IRS record is mixed and sometimes abysmal with regard to effectively administering these kinds of programs." I couldn't have said it better myself.

Aside from the costs and problems with enforcing these types of credits, there are opportunity costs associated with requiring the IRS to administer programs outside of its expertise. The GAO and TIGTA issued reports discussing the IRS's poor performance in providing telephone customer service during the 2009 filing season because of the stimulus legislation. The reports state that customer service declined significantly despite the fact that collection employees were assigned to staff the phones. So honest and diligent taxpayers don't get the help they need when they need it AND tax cheats and tax evaders increasingly get away with not paying their fair share.

From a tax administration perspective, the provisions in the various health reform bills will create infinite new problems for the IRS. The IRS is likely to be tasked with implementing provisions for which it actually must go out and collect new data – data that is unrelated to a taxpayer's tax liability.

In addition to the provisions Senator Roberts highlighted, the IRS would have to develop new processes and procedures for insurance companies and employers to challenge and appeal the calculations of the high-cost premiums tax and the employer free rider excise tax. Both of these taxes are calculated by a third party other than the IRS or the taxpayer.

The IRS would have to develop a method for calculating the new excise taxes on medical devices and pharmaceuticals; the basis for which are unprecedented.

In light of these issues, I think it is fair to consider a couple of questions.

Assuming that an individual mandate is constitutional, do we really want the IRS checking up on whether everyone has health insurance?

Do we really want to facilitate the dissemination of tax information to third parties such as employers or an insurance exchange?

Shouldn't we be providing more resources to the Department of Health and Human Services to ensure that it can receive and process the necessary data to implement the bill instead of the IRS?

My democratic colleagues in the Congress and the Administration have many ideas for new and complex ways to tax individuals and small businesses to fund all sorts of new spending. It would seem wise to make sure the IRS can enforce the tax laws before being charged with administering the new social programs created because of health reform.

I urge my colleagues on the other side of the aisle to consider these questions as we debate their bill. I yield the floor.