DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

December 3, 2004

The Honorable Kent Conrad
United States Senate
Washington, D. C. 20510

Dear Senator Conrad:

Thank you for your letter of November 22, 2004, about the tax disclosure provision that appeared in the conference report on H.R. 4818. I appreciate the opportunity to clarify the role of the IRS in this matter.

Before answering your questions, I would like to share my views on protecting taxpayer privacy. It is critically important to protect taxpayer confidentiality as provided in Section 6103. The IRS takes seriously its obligation to protect the information taxpayers provide to the government to comply with their tax obligations. Further, I believe any statutory changes in taxpayer safeguards should originate with the tax-writing committees.

I regret the IRS role in the incident in question. As I have publicly indicated, I was unaware of this provision until after it was already approved and strongly support deleting the measure from the final bill.

I will now address your specific questions:

(1) Did, in fact, IRS personnel draft the language that appeared in the conference report? If so, who requested this action?

Yes. At the request of House Appropriations Committee staff, as confirmed by recent public statements, IRS Legislative Affairs staff members provided draft language that is substantially similar to what appeared in the conference report.

(2) Given the fact that stringent restrictions apply to the tax-writing committees with respect to disclosure of returns and return information as a result of access granted to them under section 6103 of the Internal Revenue Code, who recommended that the phrase "notwithstanding any other provision of law governing the disclosure of income tax returns or return information" be included in the provision?

The House Appropriations Committee staff advised that they wanted to achieve the same level of access to IRS processing facilities as the staffs of the tax-writing committees. The IRS personnel who provided the draft language had

little time to prepare it and believed that it would be perfected by House Legislative Counsel or otherwise properly vetted.

There was no intention to allow Appropriations Committee staff to have access to tax returns or return information under any less stringent restrictions than those that apply to the tax-writing committee staffs. It was unfortunate that in their desire to provide a prompt reply to the request from the House Appropriations Committee staff, the Legislative Affairs staff members failed to draft language that accomplished the intended purpose.

(3) Since Chairman Young and Chairman Istook now claim that there was no intention that there be access to tax returns or tax return information, who recommended that the provision specifically allow "agents" designated by the Chairmen of the Appropriations Committees access to "tax returns or return information contained therein."

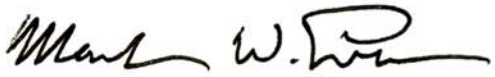
The language our Legislative Affairs staff members provided was intended to generally parallel the provision of section 6103 (f) (4) (A), which allows the Chairmen of the tax-writing committees to designate "agents" (generally their staff) to inspect tax returns and return information. This authority is used to allow Congressional staff members to visit IRS processing facilities.

(4) Did anyone at IRS discuss the ramifications of allowing access to tax returns and return information free of any legal restrictions on disclosure with the person or persons who made the request?

IRS staff members failed to recognize that the language provided did not include the parallel protections to those contained in Section 6103. Because the only intention was to provide Appropriations Committee staff the ability to tour IRS processing facilities, the unintended breadth of the draft language was not specifically discussed.

I hope this answers your questions. I would be happy to meet with you to discuss this further. Please call me directly at 202-622-9511 if you have any questions or would like to schedule a meeting.

Sincerely,



Mark W. Everson