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FEDERAL WORKFORCE TAX ACCOUNTABILITY  
Wednesday, March 18, 2015,  
House of Representatives,  
Subcommittee on Government Operations,  
Committee on Oversight and  
Government Reform,  
Washington, D.C.

The subcommittee met, pursuant to notice, at 1:04 p.m. in room 2154, Rayburn House Office Building, the Honorable Mark Meadows [chairman of the subcommittee], presiding.

Present: Representatives Meadows, Massie, Mulvaney, Carter, Connolly, Maloney, and Lynch.

\*Mr. Meadows. The Subcommittee on Government Operations will come to order.

Without objection, the Chair is authorized to declare a recess at any time. We do have votes coming up pretty shortly, so we are going to try to fast track and at least get your opening statements.

Our Federal employees are held accountable by paying taxes, by the Code of Ethics for what they sign and acknowledge for the Executive Branch. The Code of Ethics dictates that Federal employees must "satisfy in good faith their obligations as citizens, including all just financial obligations, especially those such as Federal, State and local taxes that are imposed by law."

Certainly the President's fiscal year 2016 budget asks that the taxpayer spend some \$275 billion to fund the Executive Branch payroll. Federal salaries now average over \$75,000 per person. Yet, according to the IRS, more than 100,000 Federal civilian employees owe more than \$1 billion in unpaid Federal income tax for 2013.

In prior work, the GAO has identified tens of thousands of Federal employees and contractors with access to classified information that were delinquent in their taxes, including many of them who had accrued tax debt following the adjudication of their security clearance.

The GAO also found thousands of Federal contractors with substantial amounts of unpaid Federal taxes. For example, in the VA-HHS contract for healthcare-related services, a contractor was paid over \$100,000 in Federal funds and the contractor had an unpaid tax debt of over \$18 million.

At the same time, owners were buying multimillion dollar properties and luxury vehicles but not paying their payroll taxes. Employees and contractors who do not play by the rules, who consciously ignore the channels and processes in place to fulfill their tax obligation, must be held accountable.

This particular hearing is to address those particular issues. We look forward to hearing from our witnesses in terms of your potential ideas and solutions or ramifications. We welcome you here today and thank you so much.

[Prepared statement of Mr. Meadows follows:]

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\*Mr. Meadows. Chairman Chaffetz will be soon introducing or reintroducing some legislative reform that is aimed at addressing the tax delinquent Federal employees and contractors, including those who have access to national security information.

It is with that potential reintroduction of legislation that we hold this hearing. I am joined by my friend and colleague from the 11th Congressional District, the Ranking Member of this subcommittee. I will now recognize him for his opening remarks, Mr. Connolly.

\*Mr. Connolly. I thank my friend the Chairman.

I welcome all of the witnesses at the table.

From the outset, let us be clear. While members and stakeholders may debate the particulars of how we can best address serious and willful tax delinquency committed by Federal employees, contractors, grant recipients and for that matters, members of Congress and their staffs, there is absolutely no disagreement among members here on this dais or of stakeholders in the crowd I am sure that all Americans should pay their fair taxes in full and on time.

Any disagreement or debate that may arise this afternoon simply reflects legitimate differences over what would be the most effective approach and what set of tools would be optimal to deal with the challenge of serious tax delinquency while preserving sacred constitutional principles such as the right to due process of law, even the presumption of innocence.

I have the privilege of representing the dedicated and far too under-appreciated Federal employees and contractors that protect our borders, administer Social Security and Medicare, and support our warfighters, among so many other critical missions.

I have great empathy for my constituents who express justified resentment over Congress' repeatedly highlighting those few instances of outrageous, willful tax delinquency to unfairly tarnish the entire Federal workforce and contracting communities.

The reality is that Federal employees pay their taxes at a substantially higher rate than the general public. Indeed, 97 percent of the Federal workforce paid their taxes in full and on time in 2013, an impressive figure that significantly exceeded the general public's compliance rate of 91 percent.

Furthermore, through levies and wage garnishments, the IRS already recovers almost all tax delinquent debts of Federal employees. The Majority's longstanding obsession with advancing legislation that mandates firing Federal workers who have fallen behind in their taxes seems to me a classic example of the solution in search of a problem.

Consider the last Congress in the official cost estimate of the so-called Federal Employee Tax Accountability Act, the Joint Committee on Taxation of the Congress, bipartisan, reported that enacting the legislation would "have a negligible effect on revenues.'`

In that same cost estimate, the Congressional Budget Office, a non-partisan office, scored the legislation and actually projected that enacting the bill would increase Federal spending by \$1 million in the first year and about half a million dollars in every year thereafter.

Make no mistake, the unfair effort by some to target all Federal employees as tax scoff offs has nothing to do with improving our Nation's tax compliance rate or lowering the deficit. Spending more than \$1 million of taxpayer funds to implement a counter-productive bill that only targets our Nation's civil servants, while ignoring our Nation's multibillion tax gap is neither a prudent nor a wise policy response.

Let us remember, this committee has highlighted in the past that every year the IRS cannot collect or does not collect about \$350 billion a year, not from Federal employees but money owed the Federal Government that just is not collected because of lack of resources.

No one disputes these tax debts must eventually be paid. However, while simply firing an employee may feel good, it will not properly address the problem. In fact, it would undermine the ability of the government to collect those unpaid taxes on behalf of the American people because that individual is now unemployed.

The Internal Revenue Service Federal Employee Delinquency Initiative and its Federal Payment Levy Program have already proven effective in holding Federal workers accountable for paying their taxes and recouping back taxes.

I would be interested in working with my colleagues to explore whether we can double down on those proven programs that, in fact, do work. The bottom line is we can improve upon the Federal workforce that is an already impressive and admirable tax compliance rate of 97 percent by focusing on better execution of existing programs as opposed to creating new duplicative bureaucracies and a punitive work ethic. I do not think it is going to prove useful with our Federal workers.

I certainly stand ready to hear the testimony today and hear the facts, but I must confess at the beginning, I wonder what the problem we are trying to solve is.

With that, I yield back, Mr. Chairman.

[Prepared statement of Mr. Connolly follows:]

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\*Mr. Meadows. I thank the Ranking Member for his opening statement.

I will hold the record open for five legislative days for any members who would like to submit written statements.

I would say the Ranking Member and I believe wholeheartedly that painting a broad brush with our Federal employees is not something we want to do. As we introduce the witnesses, I would ask let us look at how do we address this? How is your agency different from some of those performing better?

If we do not have to pass legislation to make this happen, I think we are all in agreement that it is more about accountability than it is trying to paint a broad brush.

\*Mr. Connolly. Mr. Chairman, I want to be very clear. In no way should my remarks be inferred as you having painted any such broad brush. I know you did not.

\*Mr. Meadows. I thank you.

We will recognize our panel of witnesses. I am pleased to welcome Mr. Brad Huther, Chief Financial Officer, U.S. Department of Housing and Urban Development; Mr. E.J. Holland, Jr., Assistant Secretary for Administration, U.S. Department of Health and Human Services; Mr. Seto Bagdoyan, Director, Audit Services, Forensic Audits and Investigative Service, U.S. Government Accountability Office; Mr. Alan Chvotkin, Executive Vice President and Counsel, Professional Services Council; and Ms. Maureen Gilman, Legislative and Political Director, National Treasury Employees Union. Welcome to all of you.

Pursuant to committee rules, all witnesses will be sworn before they testify. Please rise and raise your right hand.

Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

[Witnesses respond in the affirmative.]

\*Mr. Meadows. In order to allow time for discussion, please limit your oral testimony to five minutes. Your entire written statement will be made a part of the record.

We will recognize our first witness for five minutes.

STATEMENT OF BRAD HUTHER, CHIEF FINANCIAL OFFICER, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; E.J. HOLLAND, JR., ASSISTANT SECRETARY FOR ADMINISTRATION, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; SETO BAGDOYAN, DIRECTOR, AUDIT SERVICES, FORENSIC AUDITS AND INVESTIGATIVE SERVICE, U.S. GOVERNMENT ACCOUNTABILITY OFFICE; ALAN CHVOTKIN, EXECUTIVE VICE PRESIDENT AND COUNSEL, PROFESSIONAL SERVICES COUNCIL; AND MAUREEN GILMAN, LEGISLATIVE AND POLITICAL DIRECTOR, NATIONAL TREASURY EMPLOYEES UNION

STATEMENT OF BRAD HUTHER

\*Mr. Huther. Thank you, Chairman Meadows, Ranking Member Connolly, and other distinguished members of the subcommittee.

My name is Brad Huther. I am the Chief Financial Officer at the Department of Housing and Urban Development. I am honored to be here today on behalf of the Department. It is my privilege to testify before this distinguished subcommittee.

I have been with HUD for approximately six months having been confirmed by the Senate on September 17, 2014. I am additionally pleased to work alongside a strong team of colleagues in the Office of the Chief Financial Officer to achieve Secretary Castro's vision.

Prior to joining HUD, I served over 30 years in senior leadership positions with the Federal Government at the U.S. Patent and Trademark Office, the United States Census Bureau and the Office of the Secretary of Commerce.

My non-government professional experience includes serving as the President and Chief Executive Officer of the International Intellectual Property Institute as a distinguished adjunct professor in residence at American University.

Over the past 25 years, the CFO Act of 1990 has played a central role in improving financial performance and importantly, accountability based largely on private sector models. At HUD, Secretary Castro is committed to strengthening our core financial operations so that all senior financial and program management officials can sharpen their focus on the strategically important issues of financial analysis, forecasting and the leveraged management of every dollar we spend.

I appreciate the subcommittee's interest in examining the issue of the accountability of Federal employees and contractors. Building a stronger HUD is a key priority for Secretary Castro, Deputy Secretary Coloretti and the new leadership team at the department.

We are working diligently to increase transparency and accountability, to eliminate inefficiency and I ensure that all

employees meet high ethical standards. These efforts will help everyone at the department fulfill our critical mission of creating strong, sustainable, inclusive communities and quality, affordable homes for all.

Like all Federal employees and all citizens, HUD employees have a responsibility to satisfy their tax obligations. The vast majority of HUD employees do meet their tax requirements. Of course the goal of the department is to have all employees comply with their tax obligations and we have taken steps to help employees meet those responsibilities.

The earnings and leave statements of all employees includes a reminder of the Federal tax filing deadline and a notice that employees are unable to pay the taxes owed, they should contact the Internal Revenue Service to discuss payment options.

Further, HUD makes counseling available to any employees who need assistance managing their personal finances.

Despite these efforts, there are some employees who do not meet their tax obligations. These employees, like all taxpayers, are subject to the enforcement and collection efforts of the IRS. They also receive the same due process protections as their fellow citizens.

As the subcommittee examines this issue, it is important for both the subcommittee and the public to understand that Section 6103 of the Internal Revenue Code protects the confidentiality of tax information and prohibits its disclosure unless the statutory exception applies.

Furthermore, the responsibility to take enforcement action to recover unpaid taxes rests appropriately with the IRS.

Let me reassure the subcommittee that the department remains firmly committed to the goal of building an accountable work environment and a workforce where each and every employee is meeting his or her ethical and legal obligations, including tax requirements.

Again, I wish to thank the subcommittee for the opportunity to appear before you today.

[Prepared statement of Mr. Huther follows:]

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\*Mr. Meadows. Thank you so much.  
Mr. Holland, you are recognized for five minutes.

STATEMENT OF E.J. HOLLAND, JR.

\*Mr. Holland. Thank you, Chairman Meadows, Ranking Member Connolly and distinguished members of the subcommittee.

I am E.J. Holland, Jr., Assistant Secretary for Administration, U.S. Department of Health and Human Services. I am honored to be here on behalf of our department. It is my privilege to testify before this distinguished committee on a matter which we believe to be very important.

While I am incredibly honored to serve this Administration, I frankly am relatively new to civil service. I came here five years ago after a 41-year career in the private sector practicing law and serving in senior executive roles at three separate Fortune 500 companies.

Now, as Assistant Secretary for Administration at the department, I serve in a role similar to a chief administrative officer in a private sector company. My division is responsible for supporting some 80,000-plus employees in matters of technology, real estate, human resources and security services.

I came to serve in government with a commitment to help make government efficient and effective. Your invitation and my commitment to American taxpayers bring me here today.

You have invited me to testify regarding the tax accountability of Federal employees. Let me begin by saying that at the Department of Health and Human Services, we expect our employees to be exemplary citizens.

Our Code of Ethics requires that each of us satisfy in good faith our obligations as citizens, including all just financial obligations, especially those such as Federal, State and local taxes that are imposed by law.

We believe that Federal employees hold the public trust and should be held to a high standard of conduct. We agree that Federal employees, like all employees, should pay Federal as well as State and local taxes.

It also is of utmost importance that I communicate to you that HHS is not privy to information about tax delinquency of our individual employees. It is the Internal Revenue Service that collects tax delinquency information and only the IRS has the procedures in place to recover funds from HHS or other government employees who might be delinquent in paying their taxes.

Our understanding is that IRS sends our payroll provider, in our case, Defense Finance and Accounting Services, one of the four authorized Federal payroll providers, the information needed to collect any tax levies. DFAS notifies and collects from the Federal employee without any intervention by the Department of Health and Human Services.

Even if we were privy to tax delinquency matters of our employees, we would have to establish a nexus or a connection between an employee's position in the tax delinquency in order to take any administrative action against the employee under current law.

Under OPM government-wide regulations, unsuitability, evidence that a job applicant is dishonest in meeting financial obligations from Federal programs such as taxes, may result in a negative suitability determination. However, this does not automatically make the applicant ineligible for Federal employment but may be a consideration based on individual circumstances.

While there is not current law strictly barring a person with seriously delinquent tax debts from Federal employment, we do have laws and regulations that we follow that significantly restrict the awarding of contracts to delinquent offerors.

The Federal Acquisition Regulations, the so-called FAR, requires contractor offerors, in certain circumstances, certify whether they have been notified about delinquencies in Federal taxes and I understand the Federal Acquisition Regulatory Counsel is developing regulatory changes to the FAR to implement the new requirements in the Appropriations Act.

In summary, we do not currently have any authority to enforce tax delinquency laws on the employees of Health and Human Services. We are not privy to information regarding specific employees who might be delinquent in paying their taxes.

We, at HHS, do believe taxpayers, regardless of their income or their place of employment, should be held accountable for filing accurate tax returns and paying taxes they owe on time. We are fully supportive of enforcing those laws.

[Prepared statement of Mr. Holland follows:]

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\*Mr. Meadows. Thank you, Mr. Holland.  
Mr. Bagdoyan, you are recognized for five minutes.

STATEMENT OF SETO BAGDOYAN

\*Mr. Bagdoyan. Good afternoon, Chairman Meadows, Ranking Member Connolly and members of the subcommittee.

I am pleased to be here today to discuss the results of reports GAO issued in September 2013 and July 2014 on the Federal tax debt of Federal employees and contractors with security clearances.

I would note that Federal law does not preclude individuals with tax debt from holding such clearances. However, tax debt may be an indicator of potential current or future financial pressure and vulnerability to compromise.

According to ODNI, several million Federal employees and contractors were eligible for or held clearances as of October 2013, more than half.

Circumstances in which such clearance-holders face financial pressure create an inverted risk pyramid, with those suitable for Federal employment that may require some type of clearance at the relatively lower risk top and those with access to classified TS/SCI level information at the relatively higher risk bottom. Disclosure of such information could cause, in some cases, grave damage to national security.

With this risk as backdrop, I will now outline our key findings.

In July 2014, we reported that about 83,000 DOD employees and contractors eligible for various clearances during 2006-2011 had Federal tax-debt totaling more than \$730 million to millions of dollars. About 40 percent had voluntary repayment plans with IRS. About 25 percent were eligible for a top secret or SCI clearance. About 76 percent accrued tax debt after being deemed eligible for a clearance and most noteworthy, in terms of increased potential vulnerability, about 31 percent had access to classified information and owed about \$229 million.

In September 2013, we reported that about 8,400 non-DOD, non-intelligence civilian agency employees and contractors eligible for clearances during the period of our analysis from 2006-2011 owed about \$85 million in tax debt as of June 2012. The median debt was about \$3,800 and debts ranged once again from \$100 to several millions of dollars. About half had voluntary repayment plans with IRS. About half were eligible for a top secret clearance and about 76 percent accrued their tax debt after being deemed eligible for a clearance.

We further reported that because Section 6103 of the Internal Revenue Code restricts access to tax information without taxpayer consent, investigators primarily relied on clearance applicants self reporting their debts and validation techniques such as use of credit reports to detect tax debt.

However, each of these are shortcomings. Self reporting is a relatively work front end control without in-depth, independent verification and credit reports only contain information on debts for which IRS filed a lien on debtors' properties.

Additionally, Federal agencies do not routinely review the tax compliance of clearance holders. There is no process to detect unpaid tax debt accrued after an individual has been favorably adjudicated unless it is self reported, reported by a security manager due to garnishment of wages or discovered during a clearance renewal or upgrade.

Our findings underscore the importance of thoroughly assessing clearance applicants and holders with detailed and timely insight into their financial status while simultaneously balancing important concerns and tradeoffs about privacy and security. Such insight could help provide reasonable assurance that these individuals are not unduly exposed to financial pressure and mitigate related vulnerabilities to compromise.

In the July 2013 report, we recommended that ODNI in consultation with other agencies evaluate the feasibility of developing a system that could obtain tax debt information through an automated means for investigating and adjudicating clearance applicants and monitoring the debt status of clearance holders.

An ODNI working group is in the process of looking into this matter and we continue to monitor their progress. We will continue to periodically report on it.

Mr. Chairman, this concludes my statement. I look forward to the subcommittee's questions.

[Prepared statement of Mr. Bagdoyan follows:]

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\*Mr. Meadows. Thank you for your work and your testimony.  
Mr. Chvotkin.

STATEMENT OF ALAN CHVOTKIN

\*Mr. Chvotkin. Thank you, Mr. Chairman and members of the subcommittee.

PSC is also a strong proponent of creating a fair, balanced, and competitive Federal contracting marketplace with a level playing field for businesses.

No entity should have an unfair competitive advantage by failing to pay taxes over those firms that pay their taxes. Companies that violate the tax laws should be held accountable for those violations and punished accordingly.

In addition, in the Federal contracting market, those companies should be carefully evaluated to ensure they are "presently responsible" parties, decisions separate from punishment for past violations before being eligible to receive future Federal contracts.

The principal requirements for tax compliance are found in the Federal tax laws and enforced by the Internal Revenue Service. There are also provisions, as Mr. Holland mentioned, in the Federal Acquisition Regulation to identify and provide due process before an agency takes action against contractors who fail to comply with the tax laws. The Federal Acquisition Regulation applies only to contracts, not to grants.

The FAR specifically includes an enumerated list of causes for suspension and debarment and authorization to act against a contractor for having delinquent Federal taxes in an amount that exceeds \$3,000. The FAR also contains guidance about what constitutes a delinquent tax debt and clearly provides that such debts must be finely determined, meaning that there is not a pending administrative or judicial challenge and all appeal rights have been exhausted.

To identify contractors that may have violated Federal tax laws that have a tax delinquency, the System for Award Management, called SAM, is the Federal contractor registration system that all perspective contractors must use to enter detailed information about their company in order to be eligible to compete for Federal contracts.

SAM requires companies to certify that they have not been convicted of or had any civil judgment rendered against them because of a tax evasion or violation of Federal tax laws. SAM also requires contractors to annually certify whether or not they have been notified of any tax delinquency in excess of \$3,000.

Under the Treasury's Federal Payment Levy Program, Treasury is authorized to withhold a percentage of any Federal payment in order to satisfy a Federal tax debt. For Federal contractors,

Treasury is authorized to withhold up to 100 percent of that payment.

Despite the clear and effective initiatives to ensure contractor compliance with tax laws, policy riders regarding contractor compliance have been included in a myriad of appropriations laws over the past several years. These different approaches adopted by appropriations acts make it difficult to achieve a truly government-wide approach and also creates significant confusion within the government and the contractor community about reporting and compliance requirements.

PSC believes that the current FAR provisions, which have been in place since 2008, have had a positive impact on addressing Federal contractor compliance with Federal tax laws. Legislation that codifies, clarifies, and offers minimally invasive improvements to the Federal Acquisition Regulation could be beneficial. However, such legislation must be tailored carefully to avoid creating new challenges or new circumstances.

We understand that Chairman Chaffetz is planning to reintroduce his Contractor Tax Accountability Act. PSC recommends that the committee adopt the improvements that I have identified in my prepared statement to better align it with current regulations and practices, including repealing prior years appropriations acts, clearly stating that the provisions of the bill supersede those prior appropriations act provisions.

Your invitation letter also requested we comment on the vulnerability posed by tax delinquent workers, including Federal employees and contractor personnel with security clearances.

An assessment of a contractor employee's or a Federal employee's current compliance with tax laws is and should be a factor in the initial security clearance and background investigation and Federal adjudication process. It is, and should be, taken into account in the periodic reinvestigation of an individual's continued suitability for that clearance.

We support the current Federal Government adjudication guidelines that evaluate the whole person when considering the specific impact of any single behavior and see no need to change those adjudicatory guidelines.

However, if there are to be any changes to the security clearance process or adjudication standards regarding tax law compliance, it must treat all individuals who are applying for or holding a clearance equally.

To repeat what others have said, it is important to note that Federal contracting companies often have little ability to address cleared personnel's compliance with tax laws because it is the Federal Government that manages that clearance process

and personnel privacy issues prevent companies from knowing about the tax status of their employees unless they are told.

Nevertheless, using continuous evaluation and monitoring techniques could improve the overall compliance with the tax laws by all cleared personnel regardless of whether they are a Federal or a contract employee.

That concludes my statement. I look forward to your questions.

[Prepared statement of Mr. Chvotkin follows:]

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\*Mr. Meadows. Thank you for your testimony.  
Ms. Gilman, you are recognized for five minutes.

STATEMENT OF MAUREEN GILMAN

\*Ms. Gilman. Chairman Meadows, Ranking Member Connolly, and members of the subcommittee, thank you for the opportunity to provide NTEU's views on tax compliance issues in the Federal workforce.

I would like to extend regrets from NTEU's President, Colleen Kelly, who wanted to be here today but is recovering from back surgery.

Let me begin by stating that NTEU firmly believes that every Federal employee should pay their taxes in a timely manner. There are currently rules in place that allow Federal employees to be disciplined and even terminated for serious tax delinquency.

NTEU believes that termination for tax delinquency can be appropriate in some cases, but we believe that a blanket policy of termination is not warranted and will likely lead to more revenue going uncollected.

Under current law, agencies can take disciplinary against employees for failure to satisfy their just financial obligations, including their obligations to pay Federal taxes. These actions can range from counseling to removal.

In addition, there is also an efficient and successful process currently in place to recover taxes owed by Federal employees who become delinquent. In 1997, Congress authorized establishment of the Federal Payment Levy Program which allows the IRS to continuously levy up to 15 percent of certain Federal payments made to delinquent taxpayers.

Under the FPLP, the IRS shares tax debt information with the Bureau of the Fiscal Service, which is responsible for most Federal payments. If a match is found, a 30-day notice is given, then the IRS authorizes BFS to levy all eligible Federal payments to that individual.

The levy remains in effect until the debt is paid in full or until the taxpayer makes other arrangements to pay off the debt. Federal payments that can be levied through the FPLP include Federal salaries. It is important to note, however, that Federal payments, including salaries to delinquent employees, are exempt from the levy program under certain circumstances, including when a taxpayer is in bankruptcy, when they have applied for relief as an innocent spouse, or when the IRS has determined that they are in a hardship situation.

Therefore, one reason a Federal employee that owes taxes may not currently be under the FPLP program is that they qualify for one of these exemptions. Another reason could be that the process of determining the delinquency and implementing the levy has simply not been completed.

NTEU believes that prioritizing and providing adequate resources to the Federal Payment Levy Program would be a much better solution than a blanket employment bar. It would be a win-win by helping to get Federal employees with tax debt into compliance while recovering additional revenue that is owed.

If, however, legislation is pursued that would prohibit Federal employment for those with tax debt, we believe it is critically important to include exemptions similar to those in the FPLP, especially a hardship exemption that represents a consistent and transparent standard, as well as a notice and grace period for those working earnestly to resolve their debts.

As you know, the U.S. Tax Code is incredibly complex. People can end up owing additional taxes for many non-nefarious reasons. For example, if they took deductions they thought were allowed but were not or they got bad advice from an inexperienced or unscrupulous preparer or a joint filer got inaccurate information about a spouse's earnings.

NTEU believes that intent should be a consideration when determining whether a Federal employee should be terminated due to tax delinquency. We also believe that ability to pay should be a consideration.

If an employee is in such dire financial straits that he or she is exempt from the levy program, it is not disrespect for the law but lack of wherewithal that is behind the non-payment. Clearly firing that individual, who might otherwise get back on track, repay the debt as well as become a tax compliant, contributing member of society, rather than someone not working and possibly collecting government benefits, does not seem to make economic sense.

In fact, the Joint Committee on Taxation and the Congressional Budget Office, who scored one version of legislation that would require firing tax delinquent Federal employees as raising negligible revenue but costing an additional \$1 million in administrative costs in the first year alone.

We urge the subcommittee to consider options such as prioritizing the levy program that will improve tax compliance within the Federal workforce while bringing in additional revenue that is owed before moving to a blanket policy of termination.

Thank you again for the opportunity to provide this testimony. I would be happy to answer any questions.

[Prepared statement of Ms. Gilman follows:]

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\*Mr. Meadows. Thank you, Ms. Gilman.

I appreciate the testimony of all the witnesses. Thank you for staying close to the five oral deadline. Some of you actually came in under, so I thank you.

I am going to defer on my questions because we will have votes shortly. I am going to recognize the gentleman from Kentucky, Mr. Massie, for five minutes.

\*Mr. Massie. Thank you, Mr. Chairman.

Ms. Gilman, first of all, I want to offer congratulations. When I look through the list here, I see the delinquency rate for the Department of Treasury, I assume that would include members of your union, is the lowest on the list which I am hoping would be the case. It is 1.2 percent which is admirable compared to the other members here and even the population in general, especially the population in general.

My question is, what is it that the Treasury is doing right that everybody else is maybe missing?

\*Ms. Gilman. Let me say that the National Treasury Employee Union represents employees throughout the Federal Government but we do represent the bulk of employees who work for the Treasury Department.

Within Treasury, only IRS employees have had historically more stringent rules about tax compliance than the rest of the Federal workforce. That continues today. They have had historically rules within the IRS manual on conduct involving tax violations that have made them subject to termination for many, many years.

Since that time, there have been provisions included in the Tax Code known as the ten deadly sins which involve termination for willing and knowing violations of tax rules. I think there is sometimes a misperception that those rules involve non-payment. They do not. They involve purposely not filing returns that an employee knows are supposed to be filed or purposely under-reporting or lying about your income.

The idea of whether or not your ability to pay is actually not part of that is considered in whether or not you face termination at the IRS.

\*Mr. Massie. Would it be safe to say that the Treasury has a higher standard than the other organizations on the list and how maybe enforcement mechanisms and that is how you achieved a rate that is about one-third?

\*Ms. Gilman. The IRS does, not all of Treasury.

\*Mr. Massie. The IRS.

I think Mr. Huther pointed out that just because you are a Federal employee does not mean that you are not still deserving of the protections of the laws and your civil liberties should

still be intact. We should not single out, for instance, Federal employees.

When you apply to work at a bank, I know this because the bankers I have talked to in my district lament the fact that so many young people have horrible credit ratings are no longer eligible to be employed by their bank. To work at a bank, you have to go through credit checks. This is for you, Mr. Holland. Do employees at HHS, your organization, have to go through a credit check as a condition of employment?

\*Mr. Huther. Congressman Massie, it depends on the nature of the position. But for the vast majority of employees, at the time of their initial entry or periodically throughout the course of their careers, they would rarely be subject to a credit check per se. Those in the Senior Executive Service level and other higher ranking management officials and the career service, could be but it is a function really of the disclosure documents that they provide at the time of their filing of ethics statements and the like.

\*Mr. Massie. Mr. Holland?

\*Mr. Holland. The situation at the Department of Health and Human Services is the same as Mr. Huther describes at the Department of Housing and Urban Development. It depends upon the situation and depends upon the particular position.

\*Mr. Massie. I think Mr. Bagdoyan who pointed out that even on a credit report only if the IRS had resorted to a lien would it show up on a credit report. Is that true?

\*Mr. Holland. That would be my understanding but I am not an expert in credit reports.

\*Mr. Massie. It still might be worth doing.

Mr. Bagdoyan, I have a question for you. When you went through the numbers and looked at the individuals who were eligible for clearance, how many of them are in bankruptcy? Can you know that or not?

\*Mr. Bagdoyan. We did not identify those who were in bankruptcy. That was not in our scope. I can double check.

\*Mr. Massie. I want to get in one question. Should the government verify tax information for top secret and SCI-cleared individuals?

\*Mr. Bagdoyan. That would certainly be a consideration for the overall toolbox, but as several of the other panelists testified, the Section 6103 protections afforded tax information would preclude that and doing it in real time unless the taxpayer, in this case the security clearance applicant, consented for that information to be accessed.

\*Mr. Massie. Thank you very much. My time has expired.

\*Mr. Meadows. I thank the gentleman.

The Chair recognizes the Ranking Member, Mr. Connolly, for five minutes.

\*Mr. Connolly. I thank the Chair.

I would like to pick up on that very last point, Mr. Bagdoyan. Section 6103, which you referred to, was written by Congress and sent to the Internal Revenue Code, is that correct?

\*Mr. Bagdoyan. I believe that is correct.

\*Mr. Connolly. What do you think the purpose of that provision was?

\*Mr. Bagdoyan. Obviously to protect the privacy of taxpayer information.

\*Mr. Connolly. Speaking of privacy, Mr. Huther and Mr. Holland, you get a list every month of people who are tax delinquent, your employees?

\*Mr. Holland. I am afraid not, Mr. Connolly, we do not get such a list.

\*Mr. Connolly. Who would know since you do not know?

\*Mr. Holland. The Internal Revenue Service knows.

\*Mr. Connolly. Even if you wanted to take corrective measures, you are not privy to that information, is that correct?

\*Mr. Holland. Yes, sir, that is correct.

\*Mr. Connolly. Following up on Mr. Massie's point, if there were a lien, you might be notified as the employer so that you could comply with withholding, correct?

\*Mr. Holland. Actually, we do not even know then. We have, as do all the Federal agencies, one of four Federal payroll providers that pay our employees. Matters of liens are handled directly between the lienholder and the payroll provider. They do not need to involve the department and we do not know when that happens.

\*Mr. Connolly. Mr. Bagdoyan, you talked about your audit at DOD over a five year period. Those numbers in macros sound impressive but you pointed out that the range of taxes owed was from \$100 to in the millions, correct?

\*Mr. Bagdoyan. That is correct, Mr. Connolly.

\*Mr. Connolly. What percentage of the people would you say were involved in relatively small amounts of money?

\*Mr. Bagdoyan. I do not have that off the top of my head. I can look into it and get back to you.

\*Mr. Connolly. That would be very useful because just the macro numbers alone do not tell you much of a story. As Ms. Gilman pointed out, there may be lots of reasons somebody might be technically delinquent.

For example, if you file your taxes late, legally late, you seek an extension and you file in October instead of April 15. In compiling what you owe, assuming for a moment you owe money,

you may find after filing what you think you owe, your tax preparer, that the IRS has a small interest fee or a small penalty fee that is relatively tens of dollars.

Technically, you owe that to the IRS. You technically are delinquent. It is a matter of their accounting versus your accounting. You are absolutely legally within the law, you took advantage of a legal provision to extend when you file because you are busy in April, but what you owe is calculated slightly differently by the IRS and you pay it.

Ms. Gilman gave a bunch of examples of people who might find themselves in perfectly understandable circumstances. Ms. Gilman, one of them might be a messy divorce, correct?

\*Ms. Gilman. That is correct, Mr. Connolly.

\*Mr. Connolly. If somebody finds themselves in that circumstance, they might even be advised by their attorneys before you pay the taxes or even file them on time because of a messy divorce, you may not want to reveal x, y or z. You may want to wait until this is settled and then we can settle.

It may not be because of a willful desire not to pay your taxes, it may be because something else is at work that affects that tax obligation, is that correct?

\*Ms. Gilman. That is correct.

\*Mr. Connolly. Is it possible, Ms. Gilman, that somebody owes taxes and may not know it?

\*Ms. Gilman. Yes, it is. I believe it is often the case that there is a lien filed and people are unaware of the lien.

\*Mr. Connolly. I know of cases where the IRS had the wrong address or somebody moved. IRS is only obligated to notify you with the best available information they have, correct?

\*Ms. Gilman. That is correct.

\*Mr. Connolly. With the best of intentions, you may be innocent except IRS has decided otherwise and they have not reached you?

\*Ms. Gilman. That is right.

\*Mr. Connolly. By the way, I find what is driving this legislation really interesting because one of the things you have to concede if you want to go forward with this kind of legislation, it seems to me, is you have to concede the omniscience of the IRS. The IRS cannot possibly be mistaken, so when it declares you are delinquent, you are delinquent.

I find that a little ironic when so many of my friends have bashed the IRS for mistakes, for incompetence and for getting it wrong. In this one case, if you are a Federal employee, we just assume they always get it right.

I yield back, Mr. Chairman.

\*Mr. Meadows. I thank the Ranking Member.

They have called votes at this particular point. Just so you all know, I am going to recognize the gentleman from South Carolina for five minutes, Mr. Mulvaney, but the Ranking Member may pop out as we are getting close to a deadline. Mr. Mulvaney.

\*Mr. Mulvaney. Thank you, Mr. Chairman and the Ranking Member.

Thanks to everyone for doing this. It has been very helpful.

I want to stay on the issue that Mr. Massie finished with and Mr. Connolly began with, the Section 6103 protections which I think we would all agree is probably well reasoned and sound.

Mr. Bagdoyan, did I hear you or Mr. Holland say you folks require some people to waive that as part of their background for a security clearance?

\*Mr. Bagdoyan. That is my understanding that if the applicant for a security clearance is asked about their financial status, they have the option of waiving their 6103.

\*Mr. Mulvaney. Is the option to waive it or are they required to waive it?

\*Mr. Bagdoyan. I believe it is an option but I can double check on that and get back to you.

\*Mr. Mulvaney. It occurs to me there are ways to fix this. To Mr. Connolly's opening point, Mr. Connolly, I do not think the issue here is about the amount of money involved. I think the issue is about trust in government and the credibility that government workers have.

I think both you and I know because of what we have chosen to do for a living, we are held to a higher standard. I think taxpayers, ordinary folks, expect Federal workers to be held to at least a slightly higher standard.

It strikes me that may be looking at reforms to 6103 to make it more waivable, require it to be waived, if you want to work for the Federal Government might be something we could look at.

\*Mr. Connolly. Would my friend yield?

\*Mr. Mulvaney. I would be happy to.

\*Mr. Connolly. Thank you, Mr. Mulvaney.

My only point in questioning Mr. Bagdoyan about the amounts was simply to get a sense of the scope. I was not trying to make the point that \$100 does not matter. I was only trying to find out how many are in the millions.

\*Mr. Mulvaney. I was actually speaking to your opening, reclaiming my time, comments about whether or not this was a fiscal responsibility bill. I do not think it is. The CBO report would be meaningless unless we are trying to show people

that the government can properly work and that people who work for it are good and honest people.

What intrigues me the most is what Mr. Massie asked you, Ms. Gilman, the fact that Treasury seems to have it down. Your delinquency rate is well below two percent, roughly a third of what the average is across every other agency.

You are doing it without the heavy hand of Congress on you folks and it strikes me that the rules that you put in place, specifically IRS, might actually work. Why not do it everywhere?

\*Ms. Gilman. One thing I think is different about the IRS is that people at the IRS have 6103 authority. Information about their employees is available to the agency at the IRS unlike any other agency because they administer the Tax Code.

It has been a tradition there for as long as I am aware that the IRS existed that they were able to look into their own employees' tax compliance because they administer the Code.

\*Mr. Mulvaney. One of my takeaways is, again to the Ranking Member's point, that the IRS has a much lower delinquency rate than anybody else. What is different about the IRS? They have 6103 authority over their own employees and I think you said they have a different code of ethics, was that the term you used?

\*Ms. Gilman. They have both a manual that has always included provisions on the importance of tax compliance. They also have some statutory rules that apply only to the IRS about truthfulness and taxes.

\*Mr. Mulvaney. Maybe this is specific to Treasury, I do not know, but I think you said IRS folks can actually be terminated for nonpayment under certain circumstances?

\*Ms. Gilman. Yes.

\*Mr. Mulvaney. Is that the case at HUD or HHS? Can you be terminated for non-payment of taxes?

\*Mr. Huther. Not that I am aware of, sir.

\*Ms. Gilman. If it is found to be a violation of rules that you are not complying with your just financial obligations, including Federal taxes, then you can be terminated for that.

\*Mr. Mulvaney. My point is not that maybe that needs to be fixed or changed; my point is it seems to work. If we are looking for ways to encourage, to use a positive term, more Federal workers to file their taxes on time and do the right thing, maybe the model already exists and maybe the IRS is something we could look at, for a change, as a model for use at other agencies.

With that, I yield back the balance of my time. Thank you, Mr. Chairman.

\*Mr. Meadows. I thank the gentleman from South Carolina.

As I said, they have called votes. I want to be sensitive to each one of you. In recognition of the hard work the committee has done, I am going to submit my questions for you in writing and let you respond in writing. That way we can adjourn this hearing and let you go so you do not have to wait for an hour.

I do want to say thank you, each one of you, for your testimony. It is important, I think, that we point out this is not about the hardship cases because we all think about the hardship cases of when we could not afford to pay a tax or we had a spousal issue or something else.

This really is about making sure Federal employees adhere to the highest standards. That is what the American taxpayers want, that is what they believe. If you are getting paid by the Federal Government, you ought to pay back into the Treasury.

In doing that, it is imperative that we work together. If you have recommendations on how we can accomplish this without legislative intervention, we are certainly all ears and willing to hear that. I want to thank each of you for your testimony and for appearing here today.

There is no other business. Without objection, the subcommittee stands adjourned.

[Whereupon, at 1:55 p.m., the subcommittee was adjourned.]