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The Telephone Excise Tax Refund: A Proposal for Corrective Action by Congress

The Telephone Excise Tax Refund (TETR) is a one-time payment available on taxpayer 2006 federal income tax return, designed to refund previously collected federal excise taxes on long-distance or bundled service. It is available to anyone who paid such taxes on landline, wireless, or Voice over Internet Protocol (VoIP) service.

Families, Businesses and Nonprofits Left Out of Billions

According to IRS, 31% of taxpayers have not requested a refund—leaving the equivalent of \$4-\$6 billion of the estimated \$8-\$10 billion due to individual taxpayers.¹ American families, businesses and nonprofits are losing out on billions of dollars that is rightfully theirs.

Even more troubling, those who could most use the money—the poorest households—are the least likely to have benefited from the refund program. So far only 4-5%² of the 15³ to 20 million⁴ eligible lowest-income American households have filed a claim, leaving most of the \$600-\$900 million owed them.

Of those businesses that have filed their tax returns, less than a third (26%)⁵ have claimed a refund—only \$1.3 billion out of \$5 billion.

While state, local and municipal governments were suppose to be exempt from the tax, Barbara Franklin, the head IRS lawyer on the Telephone Excise Tax Refund (TETR), said that at least ten cities have recently submitted refund requests. It's anybody's guess how many additional cities are also eligible.

Proposed Remedial Steps

Congress must first understand the full extent to which the refund program has fallen short and, second, explore what solutions are possible to ensure that any leftover money from the refund advances taxpayer interests.

The Internal Revenue Service (IRS), the General Accountability Office (GAO) and the Congressional Research Service (CRS) should be asked to help answer a number of questions regarding the refund. These questions include:

- 1. What is the actual size of the refund?** While the IRS estimated the refund at \$15 billion, telecommunications experts⁶ and data from a 2006 CRS report⁷

suggest that the number is closer to \$20 billion. IRS should provide documentation of the methodology it used in developing its estimates.

2. **How was the refund program developed and why?** Questions submitted in 2006 to the IRS from Sen. Baucus' office on how the refund program was being developed went largely unanswered. The “how” is important so as to identify what might have been done better and to inform future refund programs. IRS should be asked to provide a detailed account of how and why it developed the program as it did, what alternative methods were considered, and who was involved in deliberations.
3. **To what extent have state, local and municipal governments been erroneously assessed the telephone excise tax, how many of them are aware of their eligibility for a refund and how much are they due back?** CRS, which has already performed several analyses of the telephone excise tax, is well suited to answer such a question.
4. **What alternative methods of refunding the telephone excise tax could have been used and what would be their reasonably expected effectiveness?** Given the enormity of the money being refunded and the fact that telephone companies have precise records of how much each taxpayer and entity was due back, why was the burden of receiving a refund put entirely upon the taxpayers? CRS or the GAO should be asked to research alternative refund methods that might have been used and their reasonably expected effectiveness.

Hearings on the refund by the committees with the proper jurisdiction should be held. Hearings are important because they would allow a thorough public examination of how and why the largest refund of this kind in U.S. history fell so short of its mission, and provide a forum for careful consideration and debate of the options to ensure that the billions of dollars of unclaimed TETR funds go to best benefit taxpayers.

Separate hearings could be held to examine each of these two areas of inquiry respectively. Committees whose jurisdiction would ostensibly cover one or both areas include:

- Senate Finance Committee
- House Ways and Means Committee
- House Budget Committee
- House Committee for Oversight and Government Reform
- Joint Committee on Taxation

Solutions

What is left over from the taxpayer refund raises the question as to the best use to be made of these funds to further efficient and honest government. We propose several alternative solutions.

1. Use unclaimed refunds as the endowment for a new, congressionally chartered organization. This nonprofit, nonpartisan organization would pursue waste, fraud and abuse in government while encouraging openness and accountability. It would serve as a civic sentinel to assist its creator—Congress—in perpetuity through a set allocation of tax dollars. The National Democratic Institute for International Affairs (NDI) and the International Republican Institute (IRI) serve as examples for setting up and organizing such an entity.
2. Designate a government administrator tasked to disperse any remaining funds through grants to organizations engaged in pursuing government waste and accountability; increasing access social programs for the poor; and increasing tax assistance to low to moderate income people.
3. Use some of the refund remainder monies to create a federal fund to assist defending government employees who blow the whistle on the waste of tax dollars.

¹ IRS. “Phone Customers Can Still Request Excise Tax Refund, IRS Says.” 21 Aug 07. <http://www.irs.gov/newsroom/article/0,,id=173222,00.html> 22 Aug 07

² IRS. Filing Year 2007 (Tax Year 2006) Reports – week ending 8/24/07. 24 Aug 07. <http://www.irs.gov/taxstats/article/0,,id=96629,00.html> 25 Aug 07

³ Greenstein, Robert. “Repaying an Invalid Excise Tax to Low-Income Households that Do Not File Income Tax Returns.” Center for Budget & Policy Priorities. 3 Aug 2006

⁴ GAO. “Telephone Excise Tax Refund Requests.” 11 Apr 07. <http://www.gao.gov/new.items/d07695.pdf> 27 Jul 07

⁵ Padgett Foundation study. 17 Apr 07. <http://www.senate.gov/~stabenow/041707Stabenowphone.htm> 27 Jul 07

⁶ The Association of Telecommunications Expense Management

⁷ Maguire, Steven. “The Telephone Excise Tax: An Economic Analysis.” 29 Jun 06 http://opencrs.cdt.org/rpts/RL33382_20060629.pdf 26 Jul 07